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THE
ETHICAL PRINCIPLE
AND ITS APPLICATION IN STATE
RELATIONS.

BY
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PRESENTED AS A THESIS FOR THE DEGREE DOCTOR OF PHILOSOPHY AT THE UNIVERSITY OF MICHIGAN.

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PREFACE.

In the following thesis the attempt has been to show that justice and grace are complementary principles: and also, to prove that, although these principles can not be separated, yet the principle of grace or self-sacrifice is in an especial manner the principle of growth or progress.

The effort has been to establish these thoughts by showing that justice and grace are clearly revealed in the life of man; and that the progress of man as a self-determining individual, developing in and through the institutions of society, has come about by a process in which self-sacrifice is always involved.

The institution considered at length is the State. We have sought to show that the potent principle of progress in our own nation has been that of self-sacrifice expressed in different forms, and that, even in the sphere of industrial relations, where self-interest is usually supposed to be the animating motive, altruism has been and is the underlying principle of real progress, and that future progress will be in accordance with the same principle.

No attempt has been made to refute other principles of explanation of progress. But such principles as "biological evolution," "natural law," "harmonious adjustment of relations," are incidentally recognized as expressions of various elements of progress rather than that any one is as adequate a principle as those which we have called the complementary principles, "justice and grace."

For, as evolution, as a principle explaining the fact of progress, is a "dynamic conception," more adequate than the formerly received "static conception," so a "rational dynamic conception" is a more comprehensive and adequate conception of the progress of man in the institutions of society than the dynamic conception. This "rational dynamic conception" sees man as a self-determining being, the elements of whose growth are a sequence which corresponds to the development from the simple and homogeneous to the complex and heterogeneous, in the lower forms of life, animal and vegetable; but these elements or external appearances in the development of man are such because of the self-determining energy of man that makes them, and the energy does not exist because of the changes in the various elements of external appearances; in the institutions of society the comprehensive way in which this self-determining energy manifests itself is in accordance with the principles, justice and grace.

I wish to acknowledge my indebtedness to Professor H. C. Adams and to Professor John Dewey for valuable instruction; and for helpful suggestions in the preparation of this thesis.

MARIETTA KIES.

MILLS COLLEGE, CALIFORNIA, Oct. 8, 1891.

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THE ETHICAL PRINCIPLE

AND ITS

Application in State Relations.

I.

JUSTICE AND GRACE CLOSELY RELATED PRINCIPLES.

It is in man that we find the full exemplification and revelation of the justice and grace of the Creative Mind. Through the determination of free will man makes himself. As a child the acts of a child are returned upon him by the will of judicious parents. But as a being who has reached the stage of self-conscious intelligence, there is a continual process of return unto the self. Every thought, feeling and act shall come back in its own power to contribute to the process of change and degeneration or to the process of change and growth and development of the individual soul. This process of self-determination, of return unto the self, is the process of justice, the fundamental principle of individuality. Man thinks, feels and acts, and receives the like in kind, nothing better, nothing

worse. This process is the basis of existence, of true individuality.

Without this fundamental process in justice, man would cease to be man. As important as this foundation is, it is only the fact of mere existence. Each individual mind, though infinite in its possibilities, is finite, is limited, and in this fact is the necessity of change or growth. The process by which man grows is that of self-sacrifice. Man originates his own thoughts, but not simply as self-thoughts, but thoughts that may include other than the self. The return of the thoughts, feelings and acts upon self is no less sure, but how different the content! Whereas the process in justice excludes the yielding of one's own for the sake of another, the process of self-sacrifice, of grace, is in its very nature the yielding of one's own immediate thoughts of self for those of, and in reference to, another.

But this process of giving implies also the receiving; the small thought which originated in the self comes back enlarged by the thought of the other. This process of yielding is the process of making, and man in giving up his selfish interests and desires for the interests of others only gives up a phase of finitude, and, at each succeeding step, enters more and more into the nature of infinite thought and infinite love.

“Justice means the return of his deeds to each

man. It therefore means freedom. Whatever a man does, he shall do to himself. This is the essence of freedom—I should say it is the form of freedom rather than its substance. When the man learns how to do to his fellow-man and to himself that which tends to his perfection, to the development of his soul in wisdom, virtue, and holiness—then he acquires the substance of freedom as well as its form.”*

And this process which is true for the realization of one human soul, is the process by which the development of the whole human race is secured. This likeness of thought to thought and feeling to feeling, or the universality of thought and feeling, constitutes the bond in the human family, the unity of the organism, the organic sympathy which is the basis of the brother-hood of man.

Man, in seeing the effects of his own deeds upon himself, learns to measure justice to another; and in his struggle with evil in his own soul in his moments of repentance and humiliation, and in his attempts at helpfulness to others, he learns true charity.

However important may be the effects of an external act, the act as an element of the soul, as assisting to form the character, lies in the motive.

* *The Christian Union*, Dec. 1, '87, article by Dr. W. T. Harris.

And this motive does not exist ready-made in the mind, but the mind in the thought-processes creates the motive as well as the act, and is therefore responsible in its very freedom to make motives that shall accord with the true freedom of the race, motives that shall contribute to the better-being of all.

Justice when consciously adopted as a moving principle, a guide for the expression of thoughts, or for the measurement of the deeds of others, is a principle of equilibrium—an Aristotelian “moderation in all things,” a live and let-live principle. The person may adopt some other principle for action than justice; in the thoughts and the corresponding emotions, as motives for action, there are two extremes of which the human soul is capable. One extreme is the haughty spiritual pride which would exclude the self from humanity; the other, the overflowing love which would give up life itself for another or for the good of humanity; between these two extremes may be found, on one side, innumerable degrees of pride, envy, jealousy, anger, covetousness, lust, hypocrisy, etc., and, on the other hand, of sincerity, purity, honesty, generosity, forbearance, fair-mindedness, good will, and charity or love for mankind.

For a child the motives exist to a large degree external to the child—obedience to authority; but

as a youth and man developing through the institutions of society, in the expansion of thought these motives have a wider and wider range, including at first the family and playmates, then friends and companions, and later comes the recognition of the kinship of the whole human race, the brotherhood of mankind. These thoughts as moving principles or motives find opportunity for widest expression in the eternal institutions, the state and the church.

The sphere of the state is for the expression of Justice, while Grace is the ruling motive of the church, the universal church, the organic unity which reveals the nature of the Holy Spirit. Justice and Grace are complementary principles; and, if there be continuance and growth, each institution, church and state, must exemplify both principles.

II.

THE ETHICAL PRINCIPLE.

Man is born into society; and it is through and by the means of society that the animal impulses and desires are made over into rational thoughts and emotions. The thoughts and emotions which in an especial way are individual, when made evident to society, or externalized through the formal will, become, or may become the thoughts and emotions of another, or of others, and finally of the social whole. This union of thought with thought and will with will constitutes the organic unity. As, in the material universe the movement of particles or change in form of forces, awakens and occasions responsive movements and changes in all parts of the universe; so, in the universe of thought, the world of spirit, the thought and acts of one individual soul may awaken responsive thoughts and acts in every human soul. There may be thus a constant communion of each soul with all, and of all souls with each. The extent to which the individual is able to grapple with, and to grasp the infinite thought of society, make it his own, and pass it on, changed by his own particular characteristics, de-

termines his place and helpfulness in the organic whole.

But in whatever place in society, he cannot escape some kind of social relations and the question will be presented many times and in many forms: In view of these social relations, how shall I act? Shall my motive, my underlying thought, be that of justice, that is, an attempt to measure to each one his deeds and to return to society just the kind of acts that society gives to me, or shall I adopt some other principle of action?

An ethical rule or principle concerns the thought, emotions, and will of the individual: not one phase or department of his nature, but the whole man; therefore, since man and his circumstances are continually changing, an ethical rule must have a progressive application. An ethical rule must be in substance true for all time, but its application practically must be to-day for one set of facts and to-morrow for another. But whatever the combination of circumstances, two factors are always present—the self and the other members of society, and an ethical rule must be such a guide, that, in its application, it will admit of the true development of both the others and the self; as Dr. W. T. Harris states it, "*It is the preference of reflected good for immediate good—my good reflected from all humanity, my good after their good and through*

*their good, and not my good before their good and instead of their good.” **

Man's relations in society are principally those in reference to other persons. His thought includes others. As a being conscious of his relations, in adopting this ethical principle as a guide for action, he makes others the end or purpose of his action; his activity shall go out to help others to a better and higher way of living.

What the good of others is and what one's own good is, can only be learned a step at a time. Acting according to the dictates of one's conscience, as it is called, frees one from immediate responsibility, but it does not necessarily imply that one has acted in accordance with what is good for humanity or ultimate right. As, for example, when a Mormon woman conscientiously receives another woman into her home as the second wife of her husband, she, in many cases thinks she is doing the will of God and is following the dictates of her own conscience. But a wider education as to the origin of the family, its historical development, and the strong center of holiness and right-living that a well regulated monogamous family forms in society, would change her conscience in reference to polygamy. The conscience involves the act of knowing

* Journal of Speculative Philosophy, Vol. 19, p. 214, or “Introduction to the study of Philosophy,” p. 244.

the succession of events that has led to the present combination of circumstances, and also an insight into what the true relation of the events under consideration ought to be from the nature of the things or persons in which the events inhere; and then an act based upon these two different kinds of knowledge will be followed by the corresponding emotion, "a clear conscience:" acts based upon clear and correct conceptions of social relations will be in accordance with the good of others and also with one's own good.

What is the external of an ethical principle but the doing of that which is customary? And these customs may be formed from any or all grades of thought of which the mind is capable. The higher the grade of thought, the more comprehensive will be the ethical principle and the more varied and complex will be its applications.

A child, or a people representing the child-stage of development in thought, will have an ethical principle placed in external commands of rulers and ancestors, an ethical principle which demands a blind obedience to authority.

And even a lower grade of ethical principle may be found than that which is seen in the normal child-mind. Acts resulting from a state of mind of covetousness, jealousy, anger, revenge, etc., show a kind of ethical principle; for so long as human

beings can associate together there is a phase of the ethical. The only position in which the human soul can be in which there is no exemplification of the ethical, is when that soul is sealed with unfeeling pride,—the frozen condition of such a mind prevents thoughts or acts going out to another or being received from others, and thus there is complete isolation from others.

In the normal development of the mind of an individual or a nation or people, in a higher than the child-grade of thought, there are customs indicating a more complex ethical principle. The ethical principle of this kind of an individual or a people would be such as would result from a second or higher plane of thought. An ethical principle from this higher plane of thought would place the individual as the center and either a fortuitous combination of circumstances would produce "the greatest happiness" to the individual, or if the conception reached that of "altruism," it would be an altruism that comes from a mechanical conception of society—a society whose development, because involving the will of man is regarded as "artificial." But "self-interest" in some form would be the moving principle; self-interest, whether pure individualism, simply happiness of the individual, or the higher form which would place the end in the development of the self, that,

thereby, the good end in the self may eventually become the good of society.

An ethical principle arising from the highest grade of thought would place "others" as the center of interest and the self as recipient of reflected good. Such a principle is that of true altruism; and since its source is in the plane of thought that recognizes man's relations to the divine, whether in God or man, such a principle is comprehensive enough for a guide in all the possible relations of members of the organic unity. Ethical principles arising from lower grades of thought, when taken as guides in every-day affairs, may secure prosperous circumstances for one individual or for a few; but the preference by the individual of reflected to immediate good makes it possible for each and all to receive the best influences from the social whole: and since this ethical principle of the highest plane of thought will, in practical application, secure the highest development of all the members of society, it should be called *the ethical principle*.

The ethical principle is the same as the content of the religious consciousness. For the motives, love, reverence, and praise to God, must find their highest expression on the will-side in the relationships of humanity—in loving helpfulness to one's fellow-men.. Through the faith-element, the unlet-

tered wild-man, the humble toiler, the business or class or party leader, those of high estate, may, each and all, by this insight of faith, adopt the divine will, the good of others, as the moving principle of their lives, and may thus produce results through the formal will that are essentially the same as the results from acts moved by the reasoned-out principle of the ethical philosopher.

"By content of religious consciousness" is not meant that "disinterestedness" which places the end or purpose in self-sacrifice for its own sake. Such an attitude is rather the opposite of the true motive, which is helpfulness to others and the reception of one's own good through others, though in this process of expression of thought for others, healthy self-sacrifice is always involved.

The above thought, that the ethical principle varies as the grade of thought and emotions varies, may be seen more clearly from the following illustration: When a company of men unite themselves for the purpose of plunder, the "honor among thieves" is the ethical principle binding them to work together and to share the booty obtained. But one of these robbers might become suspicious of the faithfulness of the others, and jealousy and anger fill his thoughts; still, as long as he remained in the robber-band and assisted in the tasks or in councils, he would show a phase of

the ethical. However, if the one should withdraw himself from the band in stolid indifference to his own fate and to that of the others, the one would then cease to exemplify the ethical. Such a condition long continued would either result in suicide—destruction of the physical—or in insanity, a complete severance, for the time, from the organic unity.

And the robber may, by a lesson in legal penalty, be led to exhibit a kind of ethical which comes with obedience to authority, and so be led to respect the rights of others to a possession of their own property. And farther, the robber, through reformatory measures, may find aroused the instinctive feelings of right and wrong and may thus be led to a plane of thought which sees the relations of his own to the rights of others in reference to the ownership of property; and, with this knowledge, his acts may now show another grade of the ethical. His motive is no longer to secure all he can get, but he recognizes that that only is truly his which can come to him as the result of a rightly directed effort in society, or that which comes into his possession by way of inheritance or gift. He takes his own and leaves others in the undisturbed possession of their own. The robber, now a citizen, a moral, respected man of society, in the countless ways in which he may come in contact

with his fellow men, in his family and home life, in his business life, in his interest in the municipal, state and county politics, in his general, civil, and social relations, exhibits an ethical principle, that, from the stage of thought which we are considering, would have as its mainspring some phase of self-interest. This individualism may vary from the self-centered condition which makes him a "terror" to his family and gains for him the title of "hard man" among his acquaintances, to the enlightened self-interest that would lead him to help society, if, eventually, he would be better off himself, and that would even lead him to spend money for the public, if thereby his own estate might be improved, or would lead him to make a gift or bequest, if his name could be associated with it or some honor bestowed upon his family.

And once more, the robber, led through reason or through faith to recognize unchanging and eternal principles, in the same relations in which above was placed the man actuated by self-interest, becomes now a man with different motives. That he may get another man's money even by skill and shrewdness and "fair play" is of secondary importance. Wealth to him is no longer an end in itself, but a means for securing the betterment physically, mentally, morally and religiously of his own family, and of the greatest number of

less fortunate families, and for securing the greatest possible good to his town, state, country, or to society as a whole. His own good, while recognized as necessary for complete self-development, is received after and through the good of others. The reflected good from the use of wealth is his motive rather than the enjoyment of its immediate use. His ethical principle is seen by him as equivalent to the golden rule, "whatsoever ye would (would = ought to wish) that men should do to you, do ye even so to them;" and the true spirit of self sacrifice or charity is recognized as the principle supplementary to justice and as the moving principle in the upliftment of society.

Whatever may be the grade of thought of the individual, whether he consciously formulates an ethical principle or not, his acts conform to some kind of an ethical principle. And at each step there is before him another possible way of acting; there is before him an ideal. This ideal may be rendered more clear and definite because of the example of some one or more of society; it may come from a clearer conception of the manner that the welfare of self may be promoted by closer connection with the external means of development, as the authority of the state, the revealed will of God, or of the manner that this welfare may be promoted by securing greater happiness, or activity to the

self through a use of nature and society; also this ideal may come from a keener insight into what is meant by the personality of man, what is the object or end for which man was created, how men can secure that development which is possible, because of the infinite possibilities of thought, and what are the definite means in the case of each individual for receiving the spiritual influence of a whole race. There is thus possible to the individual an ideal—an absolute ideal. This ideal is no less than perfection—perfect as a finite developing individual; a being whose thoughts originate no motives not in sympathy with the better-being of all, and whose will never fails to act in accordance with the good of all.

With each step of the realization of an ideal there is a change in that ideal; but since there are infinite possibilities before the individual, progress never ceases.

The progress in the application of the ethical rule may be seen by comparing different and also widely separated epochs of history.

Whatever may have been the ethical principle, "custom," "virtue," "moderation," "happiness," "will of God," "authority of the state," "conscience," "something inherent in the nature of things," "benevolence," "intuition," "reason,"—every ethical principle formulated in the past and present

has attempted to do the same thing, to serve as a guide in the will of man. We can see in different nations and peoples stages of development in the application of what we have called the ethical principle.

A few decades even show changes in the application of the ethical rule. The "higher education" of woman shows this process. Largely due to the struggles and self-sacrifice of a few heroic women in the early part of the present century, the general sentiment of the country and the world is undergoing a change in reference to the intellectual ability of woman. All changes may not indicate ethical progress; but any education for woman, however advanced, that does not change the direction of development of those inherently woman-characteristics which have blessed, and do bless, the world must be ethical in its tendency.

The question of temperance may also be taken as an illustration. While there is much opportunity for a difference of opinion as to the means that have been used to bring about a higher ideal of what constitutes a subjection of the physical wants to the will, yet no one can doubt that on this question a higher sentiment exists to-day than existed fifty years ago.

Many illustrations might be given of like changes of sentiment in reference to other questions of the

day; and wherever changes have been brought about in the direction of true ethical progress, it would be found, could the process be traced, that the beginning of such changes involved on the part of one or more, labor and the yielding of one's own immediate interests for the good of others to a greater or less degree.

And if we notice longer periods of history, the same story will be told. Take the matter of physical exercise, the training and development of the body. The fakir of the Orient, bound by superstitions and false ideas of self-sacrifice, makes the body an instrument of torture.

In the repose of the fully developed physical, the Greek saw the subjection of the body to the spirit, and the beauty of this harmonious development became to him the highest object of attainment.

As if typifying the unseen and unknown channels of action, which the various institutions of feudal society should follow, the cumbrous armor of the knightly warriors concealed and made burdensome the body whose end should be for the use and not for the hindrance of the free spirit.

The present day sees still another ideal for the physical. The culture of the body goes alongside the culture of the mind: The ideal does not

demand the exercise of the gymnasium as an end in itself, that the body may receive the complete development demanded by Greek art, nor the athletic strength that the championship of base ball, foot ball or boat race demands, but such physical culture as produces a sound body, that thereby greater physical and mental strength may be expended for the good of society.

And, again, the different customs of nations in reference to slavery, serve as an illustration of the progress in the application of the ethical principle.

Even the conception of Absolute Good held by Plato, did not prevent him from arranging his ideal state with classes of menials and slaves. The Roman triumph was not complete without the captives of war becoming slaves. And in the customs of the feudal system, it is difficult to tell which was man and which was land.

The conception of each man's complete ownership and control of his own body has been of slow growth. Our own nation has witnessed a most violent struggle necessary to carry the idea of personal freedom, ownership of self, into effect. The ethics of nearly all nations now insist that the good of the state is better secured by the freedom of all than by the slavery of some of the members.

And a similar change in the direction of greater realization of freedom may be seen in the method of the government of the State. Patriarchal government, petty rulers, suzerains, absolute monarchs and pure democracies are for the most part among the things of the past. Even in the most perfectly organized representative form of government of the present day evils are abundant. But the form of such a government, at least, grants opportunity to the members of the state for a self-development in freedom.

The life of an individual may show change, progress; that progress is slow when compared with the possibilities of development. And how much less rapid also are the changes in institutions of society! Even a life of most mature culture and most noble acts shows a great incompleteness, when compared with the possible development of that individual. And since in the very individuality of the person, there is the power to resist the environment, or to make it subservient to the self, a capability of persistence under change and at the same time capability to so react upon the self that the self is thereby self-produced, what is there to indicate that this process of self-making ever ceases? Failure to adapt one's self to his environment produces death, it is said; but if the self is his own environment, the adaptation is always possible to a

greater or less degree depending upon the strength of the individuality. And if the individual makes himself, and if there are before him infinite possibilities of development, why do not these very facts presuppose the immortality of the individual? That the history of institutions of society is a record of the beginning of an eternal process of development?

III.

THE INSTITUTIONS OF SOCIETY: THE FAMILY, THE SCHOOL, THE STATE AND THE CHURCH; IN ALL HIS RELATIONS IN THESE INSTITUTIONS, THE INDIVIDUAL MAY EXEMPLIFY THE ETHICAL PRINCIPLE.

From earliest years the thoughts and deeds of the individual are instigated and re-enforced by those around him. The child is born into the family; the kind of family is altogether beyond the choice of the individual. The child of the savage and of the most cultured and refined parents has in each case the potentialities of a human soul. The self activity of each has certain tendencies through heredity; but the family life does much to shape the direction of development. The child learns in the family the use of language, habits of order and obedience, the manner of conducting himself toward other members of the family and society. Unless the child learns to subordinate his will to the will of those older and wiser, he either must learn this lesson through a humiliating process later in life, or he will fail to render that amount of assistance to society that would have been otherwise possible.

The training of the family should enable the child to make a successful transition from a state of mere obedience and customary goodness, to a conscious application of the ethical rule in this limited sphere of his activity.

The school, as an institution of society, has not the same fundamental character as the family, or state, or church. It is a voluntary institution, and its work can be done, though less adequately, in one of the other institutions. The instruction of the school is designed to supplement and extend the training begun in the family. Whatever the kind of school, its especial assistance to the individual lies in the degree to which the activity of the child and youth is called forth and turned into such channels that his deeds harmonize with the true development of others.

Every child is born into a State just as truly as into a family. This State may be merely patriarchal, or it may be communal, or it may be a well-organized monarchy, aristocracy, democracy, or republic. Whatever the form of the State, the child-life begins in a more or less inclusive organic unity—and this unity, in however feeble a degree, shows the functions and relations of the most highly developed and organized State. The State presents the widest possible sphere for the activities of the individual. The innumerable relations of social,

civil, industrial, and political life inhere in this organic unity. The extent to which the individual enters into any or all of these relations depends upon the strength of his individuality. He may enter into the thought and purposes of the whole only sufficiently to call upon the sympathies of the other members of the State, and the State, recognizing his possibilities as a human being, expresses its thought of justice in support at the almshouse or some other fitting public institution.

The individual may enter simply into industrial and very limited social relations with others. The State attempts to establish such conditions that an equilibrium of rights may be preserved; in the social relations, that there may be freedom of communion and friendly intercourse; and in the industrial relations, freedom to each one in his own kind of activity, both in placing in the world's market that energy of brain or muscle, and the products of these powers, and in receiving from that market an exact equivalent for the expended energy.

The individual may enter not only the social and industrial but also into all forms of civil and political relations; in these relations one may so thoroughly enter into the thoughts and purposes of the whole that he may, through the strength of his individuality, reflect the will of many; but the State, recognizing the limitations of the human mind,

marks out the channels beyond which one may not go in the exercise of municipal, state or national rights and duties.

While all these avenues of assistance are open to the individual, he may disregard all the conditions for entering into even the least of them, and through his wicked deeds, destroy his connections with the true unity of the State; the State then must still allow him to receive his own deeds, and so makes known the fact that the individual has separated himself from society, by shutting him up in prison, or, if he has completely severed the union with others by taking the life of another without justifying circumstances, the State must still place upon him his deeds and take his life.

The State or Nation, into however many parts it may be divided for convenience at any time of its development, is an institution of all people. The ideal church is also an institution that includes all souls; the real church, or the church at any given point of history, includes only those who voluntarily enter into union and receive into their wills the principles of the Divine Second Person. The individual may enter into the visible or historic church by expressing his willingness to conform to the established beliefs, forms and creeds; a person enters the invisible church whenever, in the true Christ spirit, he sacrifices his selfish desires and

interests to help some other soul into a larger and better life.

The fundamental principle of the visible and the invisible church is the same—the nurture of souls into a life of divine love and holiness; and the individual who enters the church places himself in a position to receive manifold spiritual influences, and to contribute his share to the upbuilding of a spiritual kingdom. The work of the church is thus not contrary or antagonistic to the work of the State, but each in its own way helps the individual in his work of self-development.

IV.

THE STATE* AS A MORAL PERSONALITY
PROTECTS THE INDIVIDUAL AND ALSO
SECURES TO THE INDIVIDUAL THE OP-
PORTUNITY FOR FULL SELF-DEVELOP-
MENT.

A. NATURE OF THE STATE; AND GENERAL LINES OF
STATE ACTION.

A nation is not a mere aggregation of individuals, but a conscious moral personality. The conscious life of a nation is continuous; the unity of its organic structure becomes more evident from generation to generation. A nation is all-inclusive; all members of society are in the organic unity. While a nation is in the child-stage of development, a rude savage, wandering people, the unity of thought is manifested on very low planes, a union sufficient to provide in a meager way for the physical needs. But as a nation reaches a more complete stage of development, the diversified wants and interests show a varied and yet comprehensive unity of purpose and life.

*The thoughts as to the character of the State are largely obtained from Mulford's "The Nation."

External surroundings, climate, geographical position, character of soil, etc., do much to regulate the size of a nation, but the external circumstances determine neither the size nor character of a people. The direction and extent of the development of a nation are determined by the people themselves. The inherent differences of thought and character of a French people and a German people, preserve a French nation and a German nation in spite of the geographical proximity. Even after centuries of enforced union does not the same fact present itself in reference to Ireland and England?

While a nation is in the patriarchal stage it is difficult to distinguish the family from the state; the difference is in the functions, and not necessarily in the number or variety of members. The work of an individual as member of the state is different from that as member of a family. In comparison with the state, the family presents a narrow field for action, even in the early development of the state. The stronger individuality becomes a leader or ruler, and minor officers or helpers soon arise and some form of government is established. This primitive people may pass through many stages, as the communal, aristocratical, feudal, monarchial, democratic, and yet preserve its original characteristics, its unity of

purpose which made it a nation from the beginning. Our own nation may serve as an illustration.

When did the United States begin as a nation? The adoption of the Federal constitution was a step in the process. Is it not also generally recognized now, that the civil war with its results was also another evidence of the underlying unity of, thought in our nation? And can it be said even now that the unity of thought that must have existed from the beginning of the nation, is fully made real on the will-side, or in the phases of practical intercourse in the political and industrial relations? But who can tell when the unity of thought which binds our nation began? That underlying thought is freedom—religious, political, freedom of body, and industrial freedom. Did it begin with the company at Plymouth, at Delft Haven, or in resistance to the tyranny of the English monarch? Or did our nation become a nation at some point in the colonial history—the confederacy of New England, the resistance to the stamp act, the declaration of independence, the signing of the articles of confederation? The beginnings are beyond analysis, but the nation's existence is no less evident, and its reality and strength is in the thought and purpose that is manifested in different degrees of intensity in its different stages of development. And each nation that has existed

shows in the history of its life some conscious or ruling thought which directs the energies of the nation as a whole.

As the essence of the individual will is freedom, so the foundation of the nation is in freedom. The true freedom of the individual is made real only as the individual thinks, loves, and acts in accordance with truth and goodness; so a nation is only filling its true place in history as it attempts to establish conditions in which each individual may realize the highest possibilities of his being. A system of caste, as in India, only allows a few to find out the power of their own thought. A monarch like Louis XIV., crushes the expression of individuality in nearly all the members of the state. The strength and ruggedness of a Germanic barbarian horde shows the human will undisciplined by righteous customs and laws. Holland, under William of Orange, shows a nation realizing religious freedom. Since the emancipation proclamation of '63 and the fifteenth amendment of our Constitution, our nation shows a race rejoicing in freedom of ownership of their own bodies, and in nominal political freedom.

Each step of the realization of the potentialities of a human being or of a nation, is the expression of the rights of that being or nation. The individual or nation has these rights because of per-

sonality; all rights that inhere in the will of man are natural rights. Some of these rights are rendered positive by expression in the laws of a nation; others are expressed only in manners and customs. A man has certain rights by virtue of his existence, and these cannot be taken from him without a destruction of life. Other rights become manifested because of strength of individuality; these rights may be expressed without a violation of justice, unless the assertion of these rights takes away the essential rights of another; or, these rights which might be expressed because of great individuality may remain as thoughts in the mind, and the formal expression be voluntarily checked.

In union with others in the nation, the individual has the widest opportunity of expressing his rights. The nation as a whole guards and protects the rights of the different members and classes, and secures ever-widening channels for the expression of these rights. In the power of the thought of the whole, in its self-direction, rests the sovereignty of the nation. This sovereignty, or the conscious self-determination of the nation, organizes, directs, sustains, and regulates the various relations of men with men. It considers the relation of the "gifts of nature"—land, water, etc.—to the wants of men, and attempts to secure to all an impartial use of its domain.

The true sovereignty rests in the thought and will of the people as a whole. In governments that are not truly democratic or truly representative the external manifestations of sovereignty, or power, often rest with one or with a few. The more nearly absolute the power of the ruler, the more the probability that the rights of the individual or of classes will be disregarded and ignored.

The exercise and enjoyment of the individual rights of the nineteenth century represent a long struggle of the past centuries, in which the many have contended for their rights against the selfish absorption of those rights by the one or by the few. In the Orient, correspondent to the lack of a distinct idea of personality, the struggle is for the rights of one caste as against another caste, as in India; or even one nation is apparently merged into another nation, as when the Jews were made captive by the Assyrians.

In Greece, while a learned few had a true conception of the personality of man, for the most part the people did not look upon themselves each as a unit necessary to the nation as a whole; therefore the struggle for rights was that of one city against another city, as the contest for supremacy between Athens and Sparta.

The Roman world represents another phase in the conscious apprehension of what constitutes the

rights of the individual. An equality in the light of the established law is the watchword of Roman civilization, hence the great desire and honor of becoming a Roman citizen. But the process of the assertion of fundamental rights, whether recognized by the established code or not, changed and rechanged the form of the government of Rome; this process began with the withdrawal of the plebeans to the Aventine and culminated in the social war, B. C. 90.*

The teachings of Christ enforced the thought of individual responsibility with greater emphasis than it had been taught before in the history of the world. The positive command, "follow thou me," and the impressive, "Thou art the man," have been a continual lesson, at least for the will-side of the human mind, as to the significance of true personality. This thought over-reached itself in two extremes in the ten or twelve hundred years following the advent of Christ; the early monks and ascetics, failing to recognize the means necessary for the development of individuality, shut themselves away from the established channels of spiritual communication, and so became mere dwarfs compared with the personalities they might have been; on the other hand, the later popes, filled with the idea of the importance

* Fiske's "American Political Ideas," p. 79.

of the *one* individual, desired to absorb not only all spiritual power but also all temporal power into the one person.

But the thought of individual responsibility, when united with the wild freedom inherent in the Germanic mind, produced characters such as, in the many struggles of the last six centuries for individual rights, the arbitrary power of the one ruler, or of a few lords, has not been able to withstand. Each of these centuries tells its own story; the scene at Runnymede, with different settings, has been enacted over and over again. Significant among the early struggles was that made evident by the Wat Tyler insurrection; “two of the instruments by which man attains his freedom”—the right of freedom of contract and the right of private ownership in property—were slowly receiving recognition and outward expression. The grand fiery outbursts of Luther proclaimed to the world the beginning of the era of religious freedom.

In the later centuries it is difficult to find a decade that does not tell of at least a minor triumph of individual rights over extreme concentration of power. The desire for expression of individuality may become mere individualism as in the French revolution; or this desire may become a quiet and persistent demand for just and legitimate rights, as when William and Mary were forced to grant the

"bill of rights" in 1688; or again, a revolutionary war may be necessary to establish conditions under which an attempt at securing religious, political, and industrial liberty, may be made.

The struggle for the rights of the many as against the few is not yet over. With a higher and higher grade of education for society as a whole, there will be a deeper recognition of the power inherent in the individual, and this progress will be indicated by a demand for a larger and larger scope for the exercise of this activity. No limitation except that which comes from finiteness can thus be placed upon the rights that are natural to the human mind. When the nature and scope of the rights expressing series of complex relations of the members of society, become positive through a definite expression in law, then there exists a standard by which an infringement of the rights of another may be measured and punished. The struggles of different epochs, noticed above as illustrations, show the point of time at which these rights received that definite expression in law. The ideal standard for this expression in law is that perfect justice shall be secured to all. Since man is a being eternally progressive, the steps in historical progress can only show an approximation to this ideal. The thought of any one generation cannot grasp all the elements that go to make

perfect justice for a human being, and, what is even more difficult, any one generation cannot so arrange the conditions that beings endowed with free wills shall develop, in freedom, and not at the same time destroy the results of the freedom of others. With such an ideal justice as the most comprehensive insight of the wisest can grasp, one generation builds upon the experience of the preceding generations, and expresses these broader conceptions of justice in the ever-changing laws of the nation.

These broader conceptions, when expressed in law, become plainly evident to all, and about the final triumphant struggle in each instance there is no doubt; but is the *process* by which these victories in favor of individual rights are gained, always so clearly seen? However this process may be designated, in this process is the initial strength and the potentialities of all the results. It may be said that an abuse of power by the one, or by the few, leads to a revolt against tyranny. That is without doubt a step in the process. But how is the uprising brought about? There is in the human mind a natural inertia and a reverence for established customs that tend to keep man in his present condition. Is not the process of changing these customs always the same, traced with greater or less clearness by the historian? The one or the

few in a given epoch see what "ought to be" for the different members of society, and voluntarily set about establishing such conditions that the "ought to be" becomes the "is." And this always involves labor, self-sacrifice, and perhaps the voluntary yielding of life itself, before the ideas take deep root in the heads and hearts of a sufficient number to constitute public opinion. The man with a strong insight into what ought to be for society, may see a condition that can only come with years or perhaps centuries of labor. The true reformer joins a practical judgment with insight, and attempts to fit upon present conditions changes for the immediate future. His aspirations are for the betterment of society; he includes others than self. He sees the real condition of others, he sees the attainable ideal; he strives to make the ideal the real. He must arouse in those about him a conception of what they ought to be. He must meet the conservatism of established opinions; he suffers for "conscience's sake." He perhaps yields his place to another without seeing one of the principles for which he has labored and sacrificed, firmly established as "rights of the people." But since the human mind is as it is, could the result have been achieved without such work and sacrifice by some one? However mingled may be the motives, what but "the good of others," the preference of reflected

good for immediate good, can produce such results? Is it not an exemplification of grace, true charity, the complement of the expressions of justice in law?

Any of the epochs of history characterized as periods of change, revolutions, "cession of rights," might be taken as illustrations. The difficulty of determining and analyzing motives, the "mighty silent forces," presents an obstacle to such study. Most historians are concerned with the external battles, the battles of arms, and pass over in silence the battles in the souls of the real leaders in the conflict. However hidden, these motives are the moving principles of progress in the development of the state; when these thoughts are established in customs and formulated in the laws, it is comparatively easy to understand and interpret the position and progress of a nation.

Justice is then the fundamental principle of the state or nation. The state, in its organized forms of expression, has nothing to do with the motives of the individuals comprising the organic whole. The state measures the external act, and its province is to see that the acts of each are in accordance with the true freedom of all. While the state in its sphere of justice does not concern itself with the motives, yet it recognizes that the ideal for the State is such an agreement between

motive and act that the highest good of all shall be realized. But, as we have seen, there is no other way by which this conformity of motive and act can be brought about, except by a process of education and development of each individual. This is the fact that has been so often ignored in the attempts to place in an external form of government such schemes as extreme state socialism, communism, etc.,—schemes whose fundamental principles from their nature cannot be fully externalized in organized form, but must remain as motives and individual acts. In so far as true socialistic thoughts and feelings exist, they become in time expressed in acts which modify the form of government by obtaining an expression more nearly in justice to all members of the state.

But when the attempt is for socialistic form of government when the spirit of the people is not truly socialistic, directly opposite results are obtained. For when the State attempts to arrange the machinery of government as if all the members were actuated by a single purpose, and that purpose the highest good of humanity, when in reality the wills of the people are not so disposed, instead of an exemplification of this principle in the lives of the members of the State, these individuals would be in the condition of the opposite extreme; that is, they would really be cut off from the

organic unity, would be in the same condition as if they had shut themselves up in pride and self-exclusion, because the form of government had taken away the opportunity for each one to realize his own individuality by the exercise of will in freedom. The problem then is, how to arrange the machinery of government so that the State assists, by its expressions of justice, the development of true individuality in all its members.

While in the social organism, "each part is reciprocally means and end to every other part," the extent to which the other members of society are a means and end to the individual, and the individual to the others, depends upon the attitude of the individual to the other members, and of the whole to the individual. In general there are three attitudes which society presents to the individual, whether expressed in the form of written law or not.

(1) The other members may say to the one member: "What you do you shall have, and what we do we shall have, each for himself, and in so doing we shall all obtain what is our due, and the interests of the whole will be best advanced." This is the principle of individualism, which, when exactly followed, is the principle of justice. And if each one receives justly what is his due, then the organic unity through its institutions has

nothing to do in establishing justice, and the members of the organism which have sufficient individuality to receive their own deeds, survive, and those who through their position, either because of circumstances or inheritance, are not strong enough to produce such thoughts or acts as shall return to them for good, must perish, while the "fittest" because of great individuality, have the best places in the organism, because, having greater inherent power, they can receive more.

(2) Owing to the desires of the flesh and weakness of the thought and will, society does not keep the attitude of "individualism" toward the one member. The rights of others mingle and intersect the rights of one at so many points that there is a struggle and the one is forcibly deprived of his rights by the many. Society is thus antagonistic to the individual, and the individual no longer thinks and feels in union with the whole. This is the condition of revolution or anarchy, or, in its effects upon the individual, of extreme State socialism. With this difference, the condition of anarchy results from too little assistance to the individual from society, and state socialism does too much; but in either case, although for different reasons, the individual does not enter into the thoughts and purposes of the whole, the anarchist eventually, because he will not, the extreme nationalist because he cannot.

(3) The third attitude which society may have toward the individual is that of helpfulness, or the condition of true socialism—a socialism in substance, a socialism in the soul, in the motives of the individual, and not merely in state-form. Society in this attitude recognizes that the whole is stronger than the individual member or any part or class in society, and it recognizes that assistance given to a member, or to a class, in order that the weaker portions may have an opportunity to develop their activities, not only increases the thought and will-power of that portion of society, but also the power of the whole. The granting of the assistance to the weaker members may be simply justice to them, but in the others who give their assistance it is something more than justice; it is a voluntary giving up of something which they might have themselves, and it is therefore grace or true charity. And here is one of the seeming contradictions in the process of human thought; this attitude of society to the individual members demands that the sacrifice made by the stronger for the weaker, must be *for the sake* of the weaker, and not for the ultimate return of the deed upon the self, or else the end sought, the true growth of all, will not be secured.

As, in a condition of society where the principle of individualism is exactly carried out there will

be perfect justice, so in a condition of society where each member knows how to yield his own interests sufficiently to secure the highest good of all, and he voluntarily surrenders those interests for the weaker portions of society, there will be nothing for the State to do in expressing and enforcing repressive laws; but since it is difficult for any one individual or any one generation to find out what will assist the varying conditions of society, and since the members are not all moved by the spirit of brotherly love, the State expresses not only the necessary constructive laws but also repressive or protective ones, both for the sake of teaching the different classes what the true interests of all classes are, and also to assist them to curb their selfish desires.

The State can do this, because in its forms of action it eliminates the possibility of expression of merely personal thoughts and feelings. Its legislators, executives, and judges, shall reflect the will of the people; even its police officers and executioners shall not arrest and put to death that their personal feelings may be gratified, but that they may express the will of a higher personality than themselves. Even if it must be granted that the law-makers and judiciaries have not always been true to the will of the people, yet a study of the history of legislation in any of its phases discloses

the fact that where any wise and lasting law has been enacted, there has been involved to a greater or less extent self-sacrifice by one or more members of society.

But this principle of grace, charity, brotherly-love, self-sacrifice, by whatever name it may be called, does not contradict the principle of justice but is its complement. The voluntary giving up for the weaker by the stronger does not prevent the return of the deeds of the stronger to themselves, and so justice is not violated; and the sacrifice of the stronger for the weaker does enable the weaker to act in sympathy with the whole, and so enables them to receive their own deeds and in turn to give to the still weaker, and so again justice is not violated.

The laws of a nation are the standards of justice as expressed by the sovereign voice of the people. The laws of the nation represent the intersection of all the institutions of society, the family, school, the church, and the organization of civil, industrial and political relations as departments of the State. The conscious progress of these institutions will therefore be reflected in the laws. By studying the changes in the laws in reference to any or all of the relations of society, essentially the same elements may be found in the process of change in the laws that are in the line of true progress. In

the study of the ethical phases of legislation, the laws may be considered from one or the other, or both of two standpoints. We may consider the thought, the motives of the chief originators or instigators, so far as any record can be obtained, and so find whether the law had an inception in accordance with a reasonable ethical principle, or we may consider the effects of the law upon the community, or we may attempt both methods. Any law which originates from a correct insight into the needs of human beings, and into the legitimate and necessary means of supplying those needs, or, in other words, any law which is truly ethical in its origin must be ethical in its results. On the other hand, laws originated from merely selfish desires, often are truly ethical in their results when a series of years are considered. In a consideration, then, of the inception of a law, that is, the process of forming public opinion, the kinds of rights expressed and defined in a law, and the effects of a law upon the community or state, there are found the spheres of justice and grace in their relations one to the other, when externalized in society.

A few examples taken from the laws of our own country will serve as illustrations. There are two general classes of laws of a country, whether the laws of the nation or commonwealth are considered:

protective laws and constructive laws. A constructive law is protective, but also positively helpful to one or more classes of society; a protective law is negatively helpful, that is, it preserves to people the "right of life, liberty [formal freedom] and the pursuit of happiness." In a protective law we find an illustration of justice simply; in a constructive law we may study the relations of justice to grace. (1) A protective law makes explicit rights that belong to man because of existence. A constructive law defines and makes evident rights which enable a man to determine himself as a free personality: (2) some of these rights are fundamental and necessary for man to develop in independence in union with other men; (3) other rights are desirable, and their expression assists to a higher development of individuality in each and all members of society. While the facts and structure of the human mind determine largely what are the specific rights, and therefore the character of the laws which define the first two classes (1) (2) of rights, the rights of the third (3) kind can only be determined by a wise insight into the nature and limit of the first two, and a patient study of the past to discover the effects of limiting the possible power of one class in society for the sake of the development of another class.

When that remarkable committee went into the

three months' session in Philadelphia it was for a consideration of this very question; how to adjust the rights of the commonwealths to a federal government. The rights of the first two classes were more completely defined in existing laws of other countries and of the colonies than those of the third class; but the former, together with the elements of the third class of rights already defined, needed to be gathered into one compact document—a written constitution.

And the fact of a written constitution was not entirely new. The very external form shows that same process of struggle in the past, the effort and self-sacrifice of some one. The over-cautious Cromwell, though seeking and striving for freedom, could only recognize it as coming in one channel, and so he refused to listen to the entreaties of young Sir Harry Vane to adopt a written constitution, and the world waited more than a century and a quarter for a successful attempt to regulate the rights of the people by a written federal constitution.

In the following brief illustrations let us notice, first, one or two protective measures, and second, examples of measures necessarily constructive because of the nature of free-will and man's material environment, and third, measures that the processes of time and experience have proved constructive of

true individuality, and therefore constructive of national growth and development.

Congress shall have power to declare war—the war may be aggressive, retaliatory, or a war of conquest—of whatever kind, this expressed right says that a nation may, according to its conception of justice, protect itself, may react upon a neighbouring people and return their own deeds to them, may even extend its sway over surrounding territory on the ground, that, since a superior civilization will be offered to the conquered people, no principle of justice will be violated.

The privilege of the writ of *habeas corpus* expresses the right that each man has to acknowledge his own acts in the presence of his fellow-men, and to receive the verdict of his judges as if it were the voices of the injured parties. That the writ of *habeas corpus* may be suspended in the time of danger, is an attempt to approximate justice. That the power of suspension of the “writ of *habeas corpus*” should rest in the English Parliament is a constructive measure in that it indicates that the experience of the past had shown the danger of giving that power into the hands of a monarch.

Protective measures are oftener expressed in statute law than in constitutional law; all legislation simply penal for infringements upon life or property, police regulations, provisions for standing

armies, and perhaps one aspect of laws respecting taxation, are of this nature.

But, besides the just return to the government for its protective offices, laws in reference to taxation show also the constructive power resting in the government of a nation. No better illustration could be found than the experience of the colonies as contrasted with early days after the adoption of the federal constitution. By reason of the lack of a unified system of appropriations, the colonies often failed to contribute just shares towards the expenses incident to the Revolutionary war and to maintaining the government. When it was recognized that the power of demanding this pecuniary support is inherent in the central government, new life and strength was infused into the weakened organism.*

Or, must we consider that the fact that the government must have money for organization and equipment, that the people may thereby secure better conditions for self-development, the only ground for the justification of taxation? Is not the payment of taxes the form of recognition by all others of the right that each has to private ownership in property? And what is meant by private ownership? Its legal side is the recognition of government indicated above, but does not the fact

*Fiske's "Civil Government in the United States."

of this recognition show that the right is inherent in man, and the expression in laws is only the making evident what already exists? For land, water, etc., "natural agents" are as much "gifts" as the will of man is, and no more.

Man's thought is his own; he energizes, determines his development, that is, his thought must become real on the will-side of his being. The "natural agents" are man's material environment, by which he expresses his free determinations. The fact of his will, his energy, gives him the right of indicating *how*, that is, the direction in which that energy shall employ itself—the right of freedom of contract. The fact of the existence of a material environment shows on *what* this free-will shall be exercised. And as it is each one's will—my will that determines, so it is my material environment on which only my will can express itself with a sure return of the deeds to the self. Ownership by all without regard to each individual, is not true self-ownership, that ownership without which man cannot express his will in freedom. The two—the right of contract and of private ownership in property—are the fundamental rights that must be regulated by government, rights fundamentally constructive, rights without which man would cease to be man.

Laws establishing the conditions of ownership

and the transfer of property, laws in reference to inheritance, and closely connected, laws respecting taxation, render definite this right of private ownership in property, or in person (poll tax). For if the only ground for the justification of taxes is the former indicated above, namely, the need of the government for money that conditions of growth can be secured, those *conditions* could be secured by full ownership of all things by the government,—but, by the time that the conditions were secured, the *people* would be minus, that is, people in the true sense of the word, individuals making themselves in freedom through a transformation of their environment into forms suited to the wants of humanity. Without a free, self-determining spirit, government itself would soon cease to be government.

The special channels of contract and the forms of ownership must be changed with the progress of nations. Building upon the experiences of the past—imperial ownership, the use of grants obtained for meritorious services, feudal ownership, peasant proprietor, cottier system, landlord and tenant, free possession of as much as one can get hold of whether through inheritance, skill, or manipulation—whatever form, each generation must determine that for itself. The ideal may be “four acres and a cow.” But it must be one’s own four

acres and one's own cow, to use or transfer as he may determine. But as in the past, so in the future, the changes in the details of tenure must be brought about by a process in freedom. The excessive greed and monopolies in ownership of the present time can be successfully replaced by a system more nearly in justice to all, only by changing the thought of the nation on this question. This change will involve self-sacrifice in many, great labor and a voluntary yielding of possible rights in a few who take the initiative and start the current of thought which must become established public opinion, before the higher plane of thought can be expressed in just and lasting laws.

Laws that specify punishment for infringement of rights of possession and transfer are protective laws, and illustrate justice only, but laws specifying and regulating the kinds of tenure and the changes therein are constructive and indicate the advance of the social unity in this line of thought. A law that enables the officer to take the property when the payment of tax is refused, would be a protective measure; but a law establishing a "progressive income tax" would be constructive, indicating a higher conception of the relation of property to the needs of human beings than some of the present methods of levying taxes seem to indicate.

The greater part of the laws, both constitutional and statute, of a growing nation are constructive or are of the above specified third class. As an unselfish devotion to one's country, or to the good of society, becomes reflected in the changing laws, so also may be read therein selfishness, party spirit, and disregard of weak and oppressed classes. In the developing nation, laws expressing the interests of the few will be repealed, or will become of no effect. The permanent elements are therefore best seen in laws that have stood the test of time. As illustrative of the advance in the standards of justice from generation to generation, and of the process by which this advance has been brought about, let us notice in succession: Two clauses of the Constitution; the first Amendments; the trend of thought in laws in reference to education; in "poor laws"; in laws regulating the conditions of prisons; in the establishment of state charities, bureaus, commissions, etc.; and in laws in reference to industries.

The constructive measure, "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives," expresses centuries of effort to establish a safe and wise form of democratic legislation. The date 1265, and the name of the noble Earl Simon de Montfort are sufficient to indicate the nature of the process by which the one

House was forced to yield some of its assumed rights, that the "Commons" might have an opportunity to develop greater individuality.

The two-house system in the United States was ushered in by an event of less historical significance than the battle of Evesham, yet the story of Mrs. Sherman and the stray pig in the Massachusetts colony* illustrates the external of the same process—the necessity of compromise. As has been said, our constitution represents a series of compromises. And what is a compromise but a voluntary yielding of possible rights for the good of others?

To attempt to give the ethical results of the establishment of the representative principle, would be an attempt to give the history of political freedom in England and in the United States.

And the principle of the famous Connecticut compromise, whether the basis of representation should be the same for both houses of the United States Congress was a difficult point to determine. 'Neither party was willing to give way.'† 'No compromise for us,' said Luther Martin. 'You must give each state an equal suffrage, or our business is

* Fiske's "The Beginnings of New England," pp. 106-108.

† Fiske's "The Critical Period of American History," pp. 250, 251.

at an end.' 'Then we are come to a full stop,' said Roger Sherman. 'I suppose it was never meant that we should break up without doing something.' When the question as to allowing equality of suffrage to the states in the Federal Senate was put to vote the result was a tie. Connecticut, New York, New Jersey, Delaware and Maryland—five states—voted in the affirmative; Massachusetts, Pennsylvania, Virginia, North Carolina and South Carolina—five states—voted in the negative; the vote of Georgia was divided and lost. It was Abraham Baldwin, a native of Connecticut and lately a tutor in Yale College, a recent emigrant to Georgia, who thus divided the vote of that state, and prevented a decision which would in all probability have broken up the convention. His state was the last to vote, and the house was hushed in anxious expectation, when this brave and wise young man yielded his private conviction to what he saw to be the paramount necessity of keeping the convention together. All honor to his memory!"

The first eight amendments of the Constitution illustrate the same thought. These eight, selected out of the one hundred and eighty-nine presented at the first meeting of Congress, are a "bill of rights" to the American people in a more specific way than the Constitution is. Some of the provisions appear under slightly different forms as early as *Magna*

Charta, and even the provisions of the great charter were formed upon the basis of the charter presented by Henry the Second. Its two "essential clauses," as Hallam calls them, which "protect the personal liberty and property of all freemen, by giving security from arbitrary imprisonment and arbitrary spoilation, (Hallam, Middle Ages, II., p. 324) had become the foundation stone upon which the fabric of free government rested in England and America."

The conference on the island in the Thames between Staines and Windsor is the impressive scene which secured elements of justice to a waiting nation; yet, on July 15, 1215, hours and years of work and sorrow were forgotten in the glad joy of the new consciousness of freedom. The energy and persistence of Stephen Langton made known the underlying currents which are often forgotten when the victory for justice is extolled. And again, in "The Petition for Right" wrested from the lawless Charles, the courage and valiant self-sacrifice of a John Eliot are needed. The "Bill of Rights" of 1688 repeats the story with variations. The experience of the past, and a better understanding of the principles of organization enabled the patriots of England to obtain from William and Mary their desires, without the violent struggles that had attended similar efforts for liberty.

Two of the thoughts of the first amendment

usher us into the very process of history—"religious freedom" and "freedom of the press." When we contemplate the negative side of religious freedom, the centuries of war, bloodshed, suffering and martyrdom, the impression is that evil and not grace is the potent factor in historical transformations! But grace still triumphs! And the nineteenth century rejoices in the relief from those purgatorial woes. Nothing less than a history of the Church and its relations to the State can render explicit the thought contained in the expression "religious freedom." Each epoch from the time of the establishment of the Church by Christ until the present, has presented memorable names. Even the collective names of these steadfast people are sufficient to indicate the contents of volumes: the apostles and early martyrs, the Albigenses, the Franciscans, the Hugenots, the Manichaeans with their spiritual descendants the Puritans * the Calvinists, the Presbyterians, the Methodists, the Unitarians, with however mingled and perverted notions, have labored diligently for the same end—freedom to worship God according to the dictates of the conscience.

The fundamental difference between a sin and a crime obtained its first unequivocal assertion in this country in separation of Church from State in

* Fiske's "Beginnings of New England," page 39.

Virginia. "Unlike the Puritans of New England, the Presbyterians were in favor of the total separation of Church from State. It was one of their cardinal principles that the magistrate had no right to interfere in any way with matters of religion. By taking this broad ground, they secured the powerful aid of Thomas Jefferson and afterward of Madison and Mason. The controversy went on through all the years of the Revolutionary War, while all Virginia rang with fulminations and arguments. In 1776, Jefferson and Mason succeeded in carrying a bill which released all dissenters from parish rates and legalized all forms of worship. At last, in 1785, Madison won the crowning victory in the Religious Freedom Act, by which the Church of England was disestablished and all parish rates abolished, and still more, all religious tests were done away with. In this last respect Virginia came to the front among all the American States, as Massachusetts had come to the front in the abolition of slavery." *

During the reign of Henry VIII., printed matter was subjected to various irregular restrictions. Long before this time the Romans had ordered burnt libels and anything impiously written against the gods. After 800 A. D., "the popes of Rome,

* Fiske: "The Critical Period of American History," page 81.

engrossing what they pleased of political rule into their own hands, extended their dominion over men's eyes, as they had before over their judgments, burning and prohibiting to be read what they fancied not.” * In the reign of Elizabeth, “the regulations of the Star-Chamber for this purpose are memorable, as the first step in the long struggle of government after government to check the liberty of printing. The irregular censorship which had long existed was now finally organized. Printing was restricted to London and the two Universities, the number of printers reduced, and all candidates for license to print placed under the supervision of the Company of Stationers. Every publication, too, great or small, had to receive the approbation of the Primate or the Bishop of London.” †

The struggles against these restrictions upon the freedom of speech have been many and severe. In England, this contest assumed definite form through John Wilkes, who “ventured for the first time to attack a minister by name.” George the Third and the narrow and selfish Grenville opposed in vain the spirit of devotion to liberty. The colo-

* Milton's “Areopagitica,” a speech for the Liberty of Unlicensed Printing.

† A Short History of the English People: J. R. Green, page 467.

nists, in their resistance to the stamp act, joined in the general agitation. The stirring words of William Pitt, the election by the people of Wilkes as alderman of London, the "letters of Junius" enforced upon the aristocracy the necessity of yielding assumed rights. With the memory still keenly alive to the encroachments of King and Parliament, it is not strange that the new States insisted upon the clause by which Congress is forbidden to restrict freedom of speech.

"The early Federalists endeavored to introduce unusual punishments for the offence of criticising either the policy of the government or the conduct of officials, and the 'sedition law,' as it was termed, passed during the administration of John Adams, met with the approval of the court. But the reception of this law by the people emphatically declared that they believed in no sort of censorship, for the indignation which it aroused could not be allayed except by the humiliating defeat of the party that passed it. So far as I am aware, there has been no subsequent attempt on the part of civil authority to control the expression of opinion, or to limit the sphere of criticism upon government or upon the existing order of society."*

These few clauses of the Constitution are simply

**The Forum*, July, 1886: Article by H. C. Adams,
‘Shall we Muzzle the Anarchists?’

illustrations of the process of construction of the whole Constitution—the process by which the correlative powers, the legislative, the executive and the judicial, have been slowly formed, and so were ready to be rendered definite in organic law.

Since the continuance and growth of any nation depends upon the development of its members, there is no inherent reason why any or all forms of government should not have a part in the process of education of the people; and even more than that, there is no reason why any institution, as the family, or the church, should not aid in this work of education. But the question would still remain, cannot some institutions and some phases of government do the work better than others? Because the state and the church have different spheres of work in other respects, is the reason that they cannot work harmoniously in the lines of educational effort; and while the *forms* of the two institutions will always be different, the fundamental object of both in this line of work is the same, to secure conditions of growth for human souls. And when the spirit of freedom has broken down denominational barriers, there is no reason why the work of education may not be carried on by both church and state.

But as it is not in the province of the church to set up a law, a standard of compulsion, the work of

education can be done better by the state. If it were not for the natural desire of the human being to remain in his present condition, the work of education might perhaps be left in the care of the family. But the work of education is the planting of new thoughts, new ideals, and if the father and mother have not the thoughts to pass on to the children, other families must supply that lack or else there is deterioration in the organism. And it might be left to the voluntary assistance of one family to another, and so remain in the sphere of the private relations of society. But here again the question presents itself: Is that the best way? And even if it is granted that the order and system of government are needed to render the work of education effective, there is still the alternative—the federal or the state government?

Without doubt the process of the realization of the National Unity has been in *history* first local, then the commonwealth, then the nation; but if the Unity is the underlying thought, the purpose, the *logical* order is the opposite—that is, the nation is the essential determining power. But as it is difficult to determine in the case of the individual what possible rights may be yielded for the sake of others in society, so it is difficult to tell which government, federal, state, county, town or municipal can best frame or execute measures that

shall secure justice to all. Education is one of the questions that concerns this border line of authority. Besides the question of education Mulford (*The Nation*, p. 297) also places the following on this border line: "The powers" in reference "to divorce," "to the resident qualifications of an elector, and to the militia as a local or constabulary force."

What has been done and with what results, always assists in determining future actions. In our own country we find that the Federal government, and the state governments, with all the minor phases, have united in this most important of all governmental work. The colonies assisted private schools by money from taxation and by grants of land, even before a system of public schools could be sustained. The Federal government gave its first assistance in a land grant; this bill "known as the 'ordinance of 1787 for the government of the Northwest Territory,' insured to the State of Ohio two townships of land for the support of a university."* Other land grants, provisions for experiment stations, military and naval academies, library, Smithsonian Institution and National Museum, and the establishment of the United States Bureau of

* "The History of Federal and State Aid to Higher Education in the United States," by F. W. Blackmar, page 43.

Education have all been in the line of Federal Aid to Education.

The defeat of the Blair Education Bill seemed to confirm the opinion hitherto held that the States can support and manage the details of the public school system better than the Federal government.

To find out the ethical results of our public school system is a hopeless task. Some idea of the superiority of such a system which provides opportunity for so nearly free and universal education, might be seen by comparing countries having different systems; for instance, the results of the system of the United States with that of England, where public education as a system was not established by law until 1870, and then only for the lower grades; or, the system of the United States with that of Spain, where the church for the most part still controls education.

To show the great opportunities for education for all classes and conditions of people in the United States, it is sufficient to indicate a few of the most recent lines of assistance given by the states. Not only *may* the children of rich and poor receive instruction in the various grades, including high schools, but in more than twenty states children from four or five to thirteen or fourteen (varying in different states) *must* attend school a certain number of weeks in the year, in

Massachusetts and Connecticut twenty being required. Also in some cities free kindergartens and industrial education for some of the public school grades have been established. In offering to the youth of the land this industrial training, the state recognizes the necessity of a symmetrical development of all the powers of mind and body; also the necessity of correct ideas of the dignity of labor; and while the state in this kind of training does not attempt to teach "trades," it hopes to train the eye and hand, to make familiar the use of tools and instruments and ingredients, and so to prepare the youth for a successful transition from school life to the more active industrial life.

That the state should provide to a reasonable extent for the needs of its poor and unfortunate classes, is grounded in the fact of the organic unity of society. The thoughts and sympathies of these classes mingle only to a very slight extent in the thought and purposes of the nation. But when properly fed, clothed and sheltered, there is a possibility for the development of a greater degree of individuality, at least such a development on the will side as will restrain from mendicancy and vice. When this assistance to the weaker members of society, which might be rendered in the way of spontaneous private charity, becomes definite and systematized in a measure of justice, the oppor-

tunity for self-development of these classes is thereby assured.

There was no poor-law in England that can be called a constructive measure until the reforms of 1834. (The "poor-laws" before this time illustrate another phase of the relations of the government to the people, and will be considered later). Ill-advised legislation, dating back to the time of Elizabeth, had rendered the condition of the poorer classes deplorable in the extreme. "Drink and dissipation, indolence and insolence, deception and dependence, had become the familiar characteristics of the men from whose rank had come the soldiery who had astonished all Europe."* The new law, through the "work house test" sought to inspire independence and hope in these discouraged and destitute classes. Especially through the establishment of "unions" and placing the responsibility of the care of the poor upon the local government, and providing for a better administration of justice through the central board, a degree of order has been brought out of the former chaos. Among the most recent attempts at assistance to these unfortunate classes by the government, is the purchase of "Bethnal Green" and the removal of unsanitary dwellings and the

* Fowle, The Poor Law, p. 89; English Citizen Series,

erection of new ones under the supervision of the city government. The same object might perhaps be better accomplished by the appointment of a Sanitary Commission, such as those of Chicago and other cities of America. Also the government by furnishing money and appointing a committee, and affixing a penalty in case of misappropriated funds, has endorsed "General Booth's" plan of "city," "farm," and "over-the-sea" colonies; the plan no doubt originates in ethical motives, the results are not yet evident.

Some of the New England States perhaps lead the world in the intelligent care and assistance given to the poor and unfortunate through state action. Through state boards of charities a careful survey of the whole field is made, and a judicious separation of the different grades of indigent and weak-minded is brought about, and suitable help rendered to each. Connecticut has even established "children's homes," one in each county, to which the children may be taken from the regular "town farm"; the children are in this way removed from the contaminating influences of bad habits and vices of the older inmates of the alms house and given the comforts and watchfulness of a good home until a better is found with some good family.

"The plan of carrying on a municipal lodging-

house (under the control of the overseers of the poor) has been successfully worked in Boston for nearly twelve years. Those who desire to avail themselves of its comforts make their application at the police station, where they may obtain a ticket of admission; in this way hardened vagrants and thoroughly vicious criminals are screened out, so to speak. Decent food, hot baths, clean towels, clean bed linen, and even clean night-gowns are provided for the lodgers. The most deserving and respectable are given beds apart from the crowd. When the clothing of applicants is in a particularly bad state it is cleansed during the night with superheated steam, and in the morning, before the lodger is allowed to leave, he saws enough wood or performs enough other labor to pay for his expenses. In fact, we believe that the Wayfarers' Lodge has been not only self-supporting but has paid a small profit into the city treasury."*

When a person allows his bad thought or motive to become an overt act for which there has been a penalty arranged by the state, he becomes a criminal. That he should receive his own deed, expressed as correctly as possible through the established machinery of the judiciary, is simply justice. But because a man has committed one crime is not a warrant for treating him as if it was his persist-

* The Christian Union, April 2, 1891.

ent intention to continue a criminal. Until the time of John Howard the central thought of the treatment of prisoners, was retribution; punishment was inflicted for the crime and not for the preservation of the other members of society and for the reformation of the criminal. The prisoner was treated as if he had forfeited his individuality by the committal of perhaps one crime, which, if undiscovered, would have placed the man in the "best society." Howard, aroused by the inhuman treatment of prisoners of war, spent his time in visiting prisons, his fortune in propagating his ideas to arouse public interest and sympathy for the prisoners, and in 1789, in Russia, yielded his life, while on a continental tour, the results of which, like his preceding journeys, meant relief and hope to thousands of prisoners. Largely through the efforts of Howard, Parliament in 1774 passed bills "for the relief of acquitted prisoners in the matter of fees," and "for preserving the health of prisoners."

But it is only very recently that the ideas of Howard can be said to have become established as public opinion. The New York legislature in 1889 "revised and codified the prison laws in a comprehensive act commonly known as the Fassett law." The conditions which have prevailed in our state prisons until within a few years past, are described

by the Secretary of the Prison Association of New York, as follows: "The convict, on his entrance into the prison, was absolutely relieved of all self-responsibility and of nearly all rights. His maintenance was secure; it was the duty of the state to provide that. His labor was hired out to a contractor at so much a head, and all the earnings of his labor belonged solely to the state. We treated our convicts precisely as we treated our cattle; we housed them, fed them, whipped them, worked them, and, to complete the degradation, hired them out by the day; but in the product of labor the convicts themselves had no more interest or right than has the ox that drags the plough. The convict's environment was closely analogous to that of a negro slave under the regime of slavery; but it had no counterpart in any free community outside the prison. When the convict was released, he met changed conditions which his imprisonment had positively unfitted him to cope with; and the only wonder is that this vicious system did not convert every discharged convict, without a single exception, into a confirmed and irreclaimable criminal." *

The Faesett law has for its fundamental idea, that a criminal is still a human being, and that

* Prison Science with Special Reference to New York Legislation, p. 12. Economic Tracts.

under pure and wholesome industrial, educational and religious influences, he may again become a peace-loving, law-abiding citizen. To that end the warden gives especial attention to the character and needs of each individual prisoner. He is placed in one of the three grades of prisoners: "In the first are those convicts who are least vicious and give hopeful promise of reform; in the second, those of a lower moral order; while the third includes the hopelessly incorrigible." Prisoners may be degraded or promoted from one grade to another. Their work is arranged according to their classification. The labor of the first grade shall be directed "with reference to fitting the prisoner to maintain himself by honest industry after his discharge, as the primary or sole object of such labor." The first grade prisoners may be employed at 'labor for industrial training and instruction solely, even though no useful or salable products result from their labor.'"

The labor of the second grade "shall be directed primarily to the production of salable goods, and secondarily to fitting them for a life of self-support after their discharge."

The labor of those who appear to be incorrigible "shall be directed solely to such exercise as shall tend to the preservation of health, or to manufacturing without machinery such articles as are

needed in the public institutions of the State, or to other manual labor which shall not compete with free labor."

"The indeterminate sentence" is another special feature of the Fassett Bill. Instead of the present arrangement of an estimate by the Court within the specified limits of the law of the time that the criminal shall remain in prison, the new law makes his release dependent upon himself. When he gives sufficient evidence to the warden and those having the oversight, that he is ready to re-enter the social unity from which his act had severed him, and become a member whose thoughts and acts shall be in sympathy with those of the whole, then he may return and exercise all the rights of a law-abiding citizen. At present the law "provides that the courts may pronounce such sentence: the exercise of the authority is discretionary, not compulsory."

The latter part of the nineteenth century is pre-eminently the time for the appointment of commissioners in various departments of government. Some of the prominent ones are: Railroad commissions, Labor commissions, Education, Prison, and Sanitary commissions, commissions for Charities and Boards of Arbitration; the powers of these are various, including those of investigation, advisory power, police and judicial. The fact that the state

is ready to make these appointments indicates that the intimate connection and relation of all members of society is more clearly understood than in preceding centuries; it indicates that the public has an interest in classes in society that are suffering injustice from others, and in those who are weak, poor and unfortunate; it indicates that the ethical education of society has reached such a stage of development that in many cases rights may be adjusted and people may be persuaded to do better without the trouble and expense of coercion by the regular courts.

It might be urged that there is no need of searching for an ethical principle in the history of industrial legislation—that industry is governed by economic laws and not ethical principles, and that the basal economic law is to let business alone.

No doubt it is true that if one man makes a yard of cloth for the market, and another man raises a bushel of wheat also for society, in that transaction there is a phase of the ethical, but it is also true that the inhabitants of Dante's Inferno exemplify an ethical principle; for so long as human beings can associate together, even though it be in a state of anger and revenge, there is an exemplification of the ethical. The let-alone policy in business is a sufficient basis for the formation of customs in a rude or undifferentiated state of society,

but when the wants of a growing society demand a diversity of industries and division of labor, in this process the rights of one become so mingled with the rights of another that the customs can be no longer simple, and a reasoned-out ethical principle is necessary for the correct formation of those customs.

Fortunately, we can study the history of factory legislation from both standpoints; from the motive-side or the process of their inception, and also some of the results of "Factory Laws."

Because of the invention of machinery and application of scientific principles in the processes, during the last part of the last century and the first half of the present, there was a complete revolution in the methods of production. The abolition of the Guild and Apprentice system, and the extreme *laissez faire* doctrine promulgated and taught, led to a complete change in the attitude to each other of the employer and the employed. Freed from legal restraint, supported by a system of social philosophy that encouraged selfishness, the employers soon found the means and opportunities of increasing their income and power at the expense of the mental and moral qualities of the employees.

Prof. E. J. James says, "The condition of factory operatives in the factory districts and mining regions of England in the latter part the last of

century and away on into the second quarter of the present, was horrible beyond belief. The mere description of the lives they led, is enough to make one's blood boil with indignation that such things should be allowed to exist in a so-called Christian land. It seemed, indeed, as if the great mass of the laborers were destined to sink into a condition far worse than that in which even the most miserable of their ancestors had lived, and one little short of slavery in its worst form, viz., that in which the master has no duties, only rights and privileges." "As England was the first great industrial state of modern times, so in England the results of [this] policy first showed themselves in all their nakedness. The most merciless exploitation of the weaker elements of society by the stronger became the rule. The manufacturers, in their thirst for wealth, paid as little attention to the health of their operatives as they chose. The laborers in their necessity were compelled to accept what terms were offered. The labor of the father soon became insufficient to support the family. The mother had to go into the coal mine or factory. It was not enough; the children were sent into the mines and factories. They were compelled to work ten or fifteen hours a day for seven days in the week, in narrow illy ventilated and dirty factory rooms, or in still more unhealthful mines. The result of such work was, of

course, the moral and physical deterioration of the laborers from decade to decade."

What could be done! The operatives were too weak and ignorant to obtain their rights and just dues singly, or to combine successfully, and so the conditions were such that they could not help themselves. But help at length came—the voluntary giving-up of rights and privileges that could have been selfishly enjoyed. For forty-five years the seventh Earl of Shaftsbury made the cause of the poor and oppressed laborers of England his own. With untiring zeal and with almost incredible persistence and self-sacrifice he sought to better the condition of the laborers in mines and factories. He visited them at their homes, attended their meetings, was instrumental in establishing schools, and for more than twenty years in the House of Commons he introduced measure after measure in their behalf, and for twenty-five years in the House of Lords he defended their cause with equal valor.

Before 1833, when Lord Ashley began his life-work, there had been several attempts to improve the condition of the laborers through legislation. The first Sir Robert Peele, frightened by the ravages of an epidemic disease in the factory districts of Manchester, in 1802 introduced an act "for the preservation of the health and morals of the apprentices and others employed in cotton and

other mills, and cotton and other factories;" in 1819, an attempt was made to fix the age at which children should enter mills; in 1829, Sir John Broughton passed a bill providing for a partial holiday on Saturday; in 1831 night work was prohibited.

After the defeat in 1831, and rejection of Mr. Sadler in 1832, the laboring people had no one to urge their cause in Parliament. At this time influenced by friends already moved by the sufferings and the injustice received by the laboring people, Lord Ashley began his earnest and vigorous efforts to secure just labor legislation.

Point after point of benefit to the working-man was taken up, struggled for, and the consolidating act of 1878 shows the degree of success attained. The notable victories of this long period were in 1844, the number of hours constituting a day's labor for children was reduced; in 1847, through especial assistance of Mr. Fielden, the ten-hour law; in 1864, the extension act; in 1874 the minimum age of children in factories was fixed at ten years, and the provisions of the act extended to nearly every branch of manufacturing industry. At this time Lord Shaftsbury could say that "the Protective Acts in the statute book now cover a population of nearly 2,500,000 persons."

The nature of the evils remedied may be found

by considering the act of 1878. Prof. James sums up the phases of benefit as follows: "1, sanitary provisions; 2, safety; 3, employment and meal hours; 4, holidays; 5, education; 6, certificates of fitness for employment; 7, accidents."

Places of occupation must be kept clean and healthful, dangerous machinery must be guarded, a reasonable amount of time at proper intervals must be secured for meals, provision must be made for stopping work upon specified holidays, a weekly certificate of the school attendance of every child employed must be obtained, also medical certificates certifying a required degree of physical soundness, and "notice of accidents causing loss of life or bodily injury, must be sent to the inspector and certifying surgeon of the district." In 1880, The Employer's Liability Act was passed. "This gives to the employees a right to a suit against their employers in case they are injured while performing their duties, unless it can be shown that the accident was caused by the fault of the employee himself."

Without doubt it could be shown that the enforcement of the above provisions of the law did not lessen the amount of production in an appreciable degree, when series of years are considered; but the purpose here is to notice the principle whose application secures ethical results to thousands of men, women and children. We find this

thought expressed in each item that has stood the test of time; the voice of the organic whole, speaking through representatives who see the needs and correct relations of the different industrial groups, demands that one class in society who will not voluntarily give up privileges which their position in society enables them to get, must be compelled to act as if they saw the good of others and the true interests of all classes.

Factory legislation in several of the United States is essentially a repetition of that of England. Massachusetts perhaps leads in the number of points of protection granted to the employees.

The manner of securing the passage of the various acts in the United States shows another application of the ethical principle. Owing probably to a sense of independence incident to the activities which a new country arouses, to a higher degree of intelligence in corresponding grades of society in the United States than in England, brought about by more extended system of common school education, and more especially to a larger representation in the legislative body, the laws have been enacted through the efforts and combinations of the persons more directly benefitted. To be sure, the combination of one class against another class often resembles a fight in which the stronger prevails and the weaker must yield and

console themselves in any way possible; yet there is another and more hopeful point of view. The fact that those of trades or grades of industry will unite to secure a real or even supposed better condition, shows an interest and sympathy with others that is much better for society than the isolation of separate interests that comes from ill-will, ignorance, or sloth. And could the motives of many of the leaders and supporters of labor organizations be analyzed, who doubts but that acts of self-sacrifice as noble as those of the Earl of Shaftsbury would be found? The giving up of the scanty leisure time, the possible increase of knowledge from interchange of ideas in their meetings, the direct assistance given from their small earnings to the more unfortunate, to the sick and afflicted, the sympathy and union of interests necessary to effect a legislative measure—these are all means which assist in making minds more receptive of new ideas and truth when it shall be presented to them. As the factory legislation in Massachusetts is so nearly like that of England, it is not necessary to consider it in detail. But in the United States more attempts are made in the assistance and indirect protection given, through the appointment by the state of greater numbers of inspectors, commissioners, boards of arbitration, bureaus of labor statistics, etc.

Public opinion, or even a sentiment or fashion,

moves in waves through a state or country, and fifty years, or even a shorter time, may see an entire change in public thought upon a question. A movement which was originated with much self-sacrifice may become so changed by lower motives of leaders that the lofty character of acts resulting may disappear for a time; on the other hand, worthy leaders may succeed and what was the thought and purpose of a few, may become the common possession of society, moulding thoughts and customs. Compared with fifty years ago, it is the fashion now to legislate in behalf of the unfortunate, disqualification classes in society.

When we come to study railroad legislation on the side of its inception or motive-side, two difficulties are met; the custom for the State to assist in any wise legislation was to a degree established, and effective railroad legislation is so recent (if it can even be said to exist) that the thoughts and motives of those who have labored to secure greater equality in opportunities in railroad business are not yet open to the student in the pages of history. Therefore, the ethical element in railroad legislation can only be studied in the nature of the results sought in such legislation.

The means of transportation, the canal, the sailing vessel, the stage-coach, the private carrier, before 1828, are familiar to all. From an historical point

of view we would expect as the methods of production by machinery were introduced, the means of transportation and communication would also change.

We find that in the very beginning of railroads there was a class who considered that their rights were infringed upon—the owners of the land which should be used for the road-beds. Although compensated for the land, they did not like to have their acres cut in pieces, neither did the dwellers near by wish to be disturbed by the noise of the locomotive. So from the beginning the State assisted these people to give up private selfish interests for the good of the whole.

The sense of convenience and cheapness soon led to a general desire for railroads. Not even a charter was always considered necessary for construction. Railroads seemed only a benefit to society. They were indispensable in the long distances of the West. The new Western farmers were wholly at the mercy of the transporters of their produce. As always happens when there is too great dependence of one person upon another, or of one class upon another, power was abused. The rates charged were exorbitant. The agitation, begun by the abused class themselves, was endorsed by others who were willing to consider and work for the good of the oppressed, until, by the Granger legislation,

1870-77, the railroads were forced to yield some of their assumed rights and have rates regulated by the State.

But, by the commissioners appointed to fix reasonable rates, the interests of the few were so often set over against those of the many, that the result was contrary to what was expected and the laws were repealed or cautiously enforced. To avoid the difficulty attending the adjustment of a "reasonable rate," a commission of another kind was tried in the East. In 1869 the Massachusetts commission was established. By taking away the privilege of secrecy from railroads, it sought to regulate the interests of all classes by inspection and reports. As Prof. Hadley says: "Gradually but surely, they introduced improvements in accounting, which since 1878 have been further extended by the commissions of other States. In the same way they virtually compelled the roads to adopt safety appliances, by educating public opinion to a point where it demanded such action. And in the same way they exercised a decisive influence on the policy of the railroads with regard to rates, leading them to develop their local business, instead of confining attention to the ~~through~~ business."

But those things, which the Massachusetts commission sought to do for a State, are some of the

problems before the Inter-State Commerce Commission. Since 1865, when the central government authorized through connections, the importance and the necessity of Federal regulation of inter-state commerce has become more evident. The efforts culminated in the passage of the act of February, 1887.

In contrast with the anticipations of what railroads would do for the country, the evils that have come alongside the advantages are surprising. At times the thought of the good of all classes, and even of their just rights, seems to be wanting. The rights and privileges of the various classes, directors, managers, stock-holders, employees, shippers, consumers, and the general public, appear to be mingled in hopeless confusion.

The "Act to regulate commerce" recognizes the evils, and, by a commission, having investigating, coercive and judicial powers, it attempts to regulate or eradicate them. The law attempts to establish reasonable and just rates and equal facilities for interchange of traffic between different lines; it notes the fact that the classes most needing railroad "passes" seldom receive them, and therefore tries to limit the number; it seeks to limit the power of the one or the few who recklessly manipulate stock, and overpower weaker roads to increase their own millions; it seeks to prevent personal

discriminations in rates, that the large business corporations may not so easily crush the smaller ones and so control prices; it seeks to prevent local discrimination, that the shippers of small towns may have equal advantages of transportation with those of larger cities; it forbids the formation of pools, for fear that there may be a combination, and perhaps a consolidation of the great trunk-lines, and thus a railroad king who would have almost absolute power over the industrial interests of the country; it demands that accounts and established rates shall be open to the public, and encourages uniformity in book-keeping, since by these means it hopes to lessen the temptation to misapply the earnings of the road, to secure to the stock-holders regular dividends, and to remove the occasion for suspicion of the doings of railroads often shown by the general public; it provides means for statistical reports, that the railroad companies, stock-holders, shippers, and all interested, may see reflected therein the exact condition of all the forces concerned.

Whether the power of the Inter-State Commerce Commission is sufficient to enforce the provisions of the law cannot yet be determined. Whether further legislation in the same lines, either in reference to railroads or manufactoryes, is needed, must be decided from the standpoint of economy as well

as ethics. But since the true aim of a nation is not simply to become rich, but to secure a harmonious development of all its members, any legislation which wilfully violates or ignores the rights of any class or group of producers, or forgets to secure the good of an oppressed class, cannot in the long run prove to be correct legislation, even from the standpoint of economy.

If we notice, from our illustrations, the kinds of evils that experience has shown it is necessary to meet by legislation, given the usual weaknesses of the human mind, we find that different kinds of abuses are rendered possible because of the nature of the industry. Industries, like our second example, railroads, come in Professor Adams' classification * under industries of "increasing returns." From the side of economy, Professor Adams concludes that the State should regulate those industries in which the returns are increasing, that is, in those industries in which for every added increment of capital there is a greater proportional return, there is a probability that prices will be controlled by a few strong leaders in the industrial world. From the standpoint of ethics, in industries of this class, if one productive process, or one line of transportation, can supply

* Relation of the State to Industrial Action," by H. C. Adams.

the needs of the community or State, there is a possibility of a complete monopoly. The first in time, or the more skillful in manipulation, shuts out all others. An equality of opportunity is denied and some who have special ability in that line of work are kept out, and so fail to develop an individuality that might have returned to society in a large measure. With the inequality of opportunity and the consequent inequality in results of industry, there is a probability that there will be a lower standard of living,—and the less the degree of comfort in the home, the less the physical energy and courage, the less the hope and anticipation of the future, and the fewer the incentives for bettering the present condition. And if the State assists and makes the conditions of the industry such that there can be greater equality of opportunity, there is more probability that the ideals, the "ought to be" of the individuals concerned, will be realized to a greater degree than would otherwise happen.

Included in this class are railroads, telegraphs, telephones, express business, also municipal supplies, as water, light, street railways, etc.

It might also seem that manufactures could be included in this class, but when monopoly in this line of industry exists, it is of a different character, or, as Mr. Bonham tells us, the strength of business organizations like the Standard Oil Trust,

depend largely upon the secret alliances and bargains with the railroads and the rebates received from them. There is nothing in the nature of the productive process in manufacturing that forbids multiplication. And also Professor Clark states that a report of textile industries for a series of years gives an average in return of about a normal interest. Manufactures, then, under ordinary conditions, would have constant returns, and in such industries the opportunity for the capitalist to get more than his proportional share of the product is not great, and Professor Adams concludes that, as far as prices are concerned, industries of constant returns "are adequately controlled by competitive action."

But when the ethical principle is applied, there is opportunity for the class taking the risk and responsibility to forget, or to be neglectful, of the good of those associated with them in business relations. This is especially true since in many industries of this class, a large investment of capital is necessary before the industry can be undertaken, and the fear that the investment may be a losing one, leads to a reluctance to spend additional amounts in safe machinery, leads to an exaction of the greatest number of hours of work possible, to the employment of women and children, and to a slackness and irregularity in payment of wages.

Since industries of this class present these opportunities for selfishness and forgetfulness, the State comes forward and assists by regulating the conditions of production, and so prevents the physical, mental and moral deterioration of society.

Some of the industries of this class are: different kinds of manufacturing, cotton, woolen, iron, leather, wood, etc.; business organizations for facilitating exchange of supplies, such as stores, shipping-companies, etc.

What shall be said of the kinds of industries known under the general head of "agriculture?" Shall we consider its "possibilities" or its "probabilities?" Is agriculture an industry of invariably diminishing returns? How has it been in our own country in the period of "land exploitation?" In older sections near large centers of population, where "intensive farming" continues and increases the natural fertility of the soil, are the returns necessarily diminishing? Professor Adams states that industries of diminishing returns are "adequately controlled by competitive action," and that there is "no call for government farming."

But it is true of this class of industries, as of the preceding, that the State can and does assist in securing ethical results, by regulating the conditions of labor. Also there may be need of help and encouragement to those who take the initiative.

responsibility. If there was any thought beyond that of the increase of the material resources of our country, this desire of having a strong hopeful class in new portions of the country, must have prompted the Government to make rapid and almost free distribution of the land in the earlier days of our country. It may be that the apparent need of continuing that assistance, as, for instance, in the establishment of an agricultural department in the Cabinet, is caused by excessive legislation favoring some other industries—legislation based not upon any consistent ethical principle, but upon favoritism to special industrial groups—and that such legislation has produced an abnormal condition, so that one channel of assistance and influence must be off-set by another, in order to produce an equilibrium.

Whatever may have been the causes rendering the assistance of the State necessary, further than a regulation of the conditions of labor, the State in these attempts at assistance recognizes the fundamental character of agriculture, the dependence of other industries upon it, and therefore the dependence upon it of the very stability of society itself.

The foregoing illustrations serve as types of the different channels of assistance from the State through legislation. If the history of the specific laws has been correctly interpreted, there is a defi-

nite relation of a completed written law, as expressing a standard whereby to justly measure the deeds of individuals, to the motives in which the law originated and to the results of that law in society. Laws that time has proved to be most beneficial to society have had an inception in motives that place the good of society before private immediate good to the individual; therefore, as the application of the ethical principle in State relations becomes general and more nearly complete, the resulting laws as standards of justice will be more nearly perfect, and greater will be the progress of the nation.

B. THERE ARE LIMITS TO WISE STATE-ACTION.

(a) *There may be too much legislation even in the beneficial lines.*

If the State is so strong a helper and defender of the rights of its members, why can not all phases of state-relations come under its jurisdiction, have a general settlement and then go on smoothly ever afterwards?

The will of man is essentially freedom; and whenever the State would take away from any individual or class rights that are inherent in the personality of man, just then the State begins a process of destruction of its members, and so begins a process of dissolution and death. Man's thoughts are his own; the expression of thought, when that ex-

pression does not injure another member of society is his own right: man's control over his physical energy, and over as much of his environment as he can assimilate or acquire by the free consent of others, is his own: these are the fundamental rights of man; and whenever in the past the State has made laws taking away any of these rights from any class in society, results detrimental to the well-being of the State have followed.

The Massachusetts colony found that the invasion of the right of belief in the requirement of church-membership for the exercise of the right of suffrage was incompatible with the development of free institutions. "In 1631, it was decided that 'no man shall be admitted to the freedom of this body politic, but such as are members of some of the churches within the limits of the same.'" In this regulation which attempts in reality to set up an external measure for one's belief, the State infringed upon fundamental rights of man's personality, and the troublous experience of Massachusetts, while such a measure remained in force, shows the results.

We have already noticed a few of the non-ethical results which followed from the abridgment of the right of freedom of speech in the establishment of the "censorship of the press."

No more significant illustrations of an invasion of fundamental rights can be found than the "Sta-

tute of Laborers," about the middle of the fourteenth century and the really supplementary act, the "Poor Law" of the time of Elizabeth.

According to the former, "every man or woman of whatsoever condition, free or bond, able in body, and within the age of three-score years—and not having of his own whereof he may live, nor land of his own about the tillage of which he may occupy himself, and not serving any other, shall be bound to serve the employer who shall require him to do so, and shall take only the wages which were accustomed to be taken in the neighborhood where he is bound to serve two years before the plague began. A refusal to obey was punished by imprisonment." *

The Poor Law with its provisions for over-assistance to the idle and vagabond invaded the right of a man to self-determination; a premium was put on inactivity and on dependence upon others. The system of rates levied upon the parishes for the assistance of the poor, dispensed as "out-door" relief took away from many able-bodied men the sense of responsibility for the support of recklessly large families. The "Act of Settlement" by enforcing a continued residence in the same locality took away from the laborer the possibility of selling his work in a more favorable market. As Profes-

*A short history of the English people, pp. 263-264:
J. R. Green.

sor James states: * "In 1601, the famous Poor Law was enacted which, with the supplementary acts, completed a system of legislation which did as much to degrade the laboring man and prevent him from rising out of hopeless dependence and poverty as the most bitter enemies of labor or the most warm-hearted partizans of privilege could desire."

Closely allied with the above kind of legislation are the laws made in the interest of some section or class or industrial group. Such legislation is not properly legislation. The underlying thought of law of whatever kind is its universality, since it is the form for the expression of a universal activity in any given realm. Unless a law of the State expresses the thought of the whole, it expresses the desires and supplies the needs of a favored few at the expense of the rights of the many. Such legislation may not take away the inherent rights of any class in society, but, in according extraordinary privileges to some, others will be deprived of needful opportunities for self-development. It is sad to relate that during nearly every session of State legislatures, and of the National Assembly, there are attempts to pass laws of this kind which too often are successful: among the recent ones that have attracted a good deal of attention are "River and Harbor

*The Labor Movement the Problem of To-day, p. 14.

Bills," favoring unjustly appropriations of money to one locality over another; the McKinley Tariff Bill, favoring classes of industry; the repeal of the Benet Law of Wisconsin, which, by removing the compulsory education requirements in the English language, favors the establishment of local Germanies, Hungaries, etc., and encourages the establishment of sectarian schools.

There is, therefore, a large sphere in industrial, political, social and church relations, where the direct assistance of the State is injurious: all legislation that takes away man's freedom of thought or belief; that deprives man of his fundamental rights, freedom of ownership of his body and of his own energy, physical and mental, freedom of ownership of a sufficient amount of his environment upon which to expend his energies, and, implied in these forms of ownership, the right of freedom of contract; and that legislation which does not take away fundamental rights, but grants rights to a few or to a class in society, so that another class has not the opportunity of needful self-development, is included in this sphere of injurious state action.

(b) *Also in many relations of society, assistance from the State other than protective laws is unnecessary.*

All growth of the human mind is the result of activity and effort; and, as voluntary assistance

from one member of society to another, when the work can be done equally well without assistance, injures the individuality of the assisted member, so, assistance from the State when an equilibrium can be preserved without it, only corrupts and destroys the individuality of the assisted class. Although in many relations of society special constructive measures of the State are not needed for the development of society, yet the protective measures and the fundamental constructive measures, or what is known as "legal organization," is presupposed.

The special constructive measures of the State are not needed in the field of competitive action in the industrial world, and in the general social relations of society.

In these many relations the applications of the ethical principle are not of less importance than those that have been considered; but since the acts of an individual concern one or a few members of society, the surrender of selfish interests for the good of others becomes private in its character.

But many of the forms of voluntary organization of industry at the present day give to almost every kind of industry a quasi-public character; and also, the very unity of the organic structure of society presupposes the dependence of one kind of industry upon another, so that the business cus-

toms and methods of one industrial group affect all others. As we have seen, the customs of society are made over or changed by the motives of the members of society. The present inquiry is limited to a consideration of the ethical principle in the so-called field of competitive industrial activity; or it is an inquiry into the range of motives possible to an individual in his business relations.

We have already seen that a motive is a thought and that a man is responsible for his thoughts or motives. All relations of society are those of the self to the other members of society. The acts of man in his business dealings will be based upon one or the other of two positions—either self will be placed first, or others will be considered first; and therefore the ruling motive in business relations may be that of self-interest or that of altruism. (All motives lower than that of self-interest, that is, motives to destroy the good deeds of society, do not have even a recognized place in business relations.) Although a man may act in his business relations without any conscious formulation of a motive, yet he acts according to custom, and the customs that he follows have been formed in accordance with one or the other motive of different minds.

It is a mistake to suppose that the large body of precepts, maxims and principles that form the

basis of Political Economy have come into being without a conscious thought-process in which they originated. Even the simplest act of exchange, or of the satisfaction of one's wants involves a motive. A large number of these general principles based upon the most customary acts in business relations, and these acts in turn based upon the nature of man and his relation to his material surroundings, are now accepted as principles sufficiently universal and well-established to form the positive part of Political Economy, the part sometimes called the positive science of Political Economy.*

While these general principles of Political Economy are sufficiently established in practice and in formulation to be rightfully considered as the basis of the "science," yet it must not therefore be supposed that these principles have sprung up spontaneously and ready-made. The history of industrial society shows that the customs of the industrial world have been of slow growth, and also history shows that the systematizing of the principles has had a like slow evolution. Even the most fundamental ideas like wealth and utility and value, etc., depend for their significance upon the view that one takes of the nature of man and his relation to the external world. Such an investiga-

* See "Scope and Method in Political Economy," p. 46, et seq : John N. Keynes.

tion of the nature of the wants of man and the dependence of these wants upon the thought of man, and of the process in thought itself, and of thought as manifested in the universe, and of the possibility of thought to assume different forms and yet be essentially one thought-process, does not come properly in Political Economy, but in Logic, not formal logic, but the real, the Hegelian kind of Logic.

Thus it may be seen that principles that are ultimate for Political Economy may not be ultimate when considered from another standpoint. And while even the positive part of Political Economy need not concern itself too particularly with the philosophical principles upon which the basal principles of Economy rest, yet these basal principles must be formulated in such a manner that their interpretation from a philosophical standpoint will admit of the most comprehensive thought yet given to the philosophical world; or, if these principles are not so stated there results a "science" which is merely "opinions" of different writers.

In very much the same way that Economics is based upon principles which in turn are discovered by a philosophic insight into the nature of man and things, is Ethics based upon Psychology and Philosophy. Ethics has for its province the investigation of the will-side of man—the "substantial

will" or thought, as motives, and the "formal will" or action. But these fundamental principles of Ethics must be based upon a correct insight into the "freedom of the will," into the development of the substantial will or thought, into the inherent self-activity, and, therefore, the continuance of thought, or the immortality of the individual, and into the relation of finite self-determined individuals to an infinite, absolutely self-determined Being, or Absolute Personality. As in Political Economy it is only necessary to be sure that the basal principles are correct from the logical and philosophical standpoint, so in Ethics it is only necessary that the nature of the will and thought of finite individuals, developing in and through the institutions of society, be clearly understood in order to continue the investigation into the *process* of the development of the individual will in union with other wills, and into the results of different phases of development in the organic unity of society.

Given the "positive part" of Economics and of Ethics, each has a field of inquiry into the practical application of these principles in the industrial relations of members of society: (there are practical applications of ethical principles in other realms than the industrial, but these are not considered at this time). A consideration of the practical application of economic principles is

known as "applied economics," or as the "Art of Political Economy;" a consideration of ethical principles in their practical workings in institutions of society is known as "applied ethics." In relation to some of the phenomena of industrial society, applied economics and applied ethics may mean the same thing; but there may also be distinguished a difference. Applied ethics has for its province, more particularly, a consideration of the kinds of motives that it is possible for the human mind to originate, the acts which result from these motives, and the results of these motives and acts in specific industrial relations; while applied economics, instead of emphasizing the motive side, considers more carefully the environment side of the individual. In other words, applied economics begins with the combinations of circumstances which tend to change the lines of activity of individuals in business, and in thus putting the stress upon one's surroundings, there is the likelihood that the individual will be considered as acting from a given very limited set of motives with no power in himself to change those motives; and also, applied ethics, in putting the stress upon the motive side, the freedom side of the individual, is likely to ignore the fact that circumstances often compel a man to act for a time from less noble motives than he desires to put in action.

In the development of either, applied economics or applied ethics, the fundamental logical principles are the same; also, the fundamental principles or the accepted positive part of Political Economy should remain unchanged; and also the basal principles of pure Ethics.

As we have seen, the two general motives in business relations are those of self-interest and altruism, that is, all the possible grades of thought may be resolved into one or the other. If it be said that a person need not take a decided motive either one kind or the other, yet either he does or he follows custom; and these customs have had a formation in a conscious thought-process at the initial stage of their development, and these customs are in a large measure the environment side of the individual.

In the past, it has been much the fashion to consider man in his industrial relations as acting wholly from the motive of self-interest; this has been done by different writers for two different reasons, to simplify the industrial elements that the course of reasoning may proceed from simple to complex phenomena, and also because men have been really regarded as having use in business relations, for the motive of self-interest only, and that any higher motives could have a place only in social, family and church relations.

If we consider some illustrations from business

relations, we may be able to see how the same question will appear from different standpoints, that is, we will try to look at the same set of phenomena from the standpoint of the motive of self-interest, and from that of altruism; and also from the standpoint of the environment, that is, of applied economics. To simplify matters, these illustrations will correspond to the classical divisions of Political Economy, "fundamental principles," "consumption," "production," and "exchange and distribution."

These three standpoints may be broadly taken to represent three positions of writers, upon subjects of Economy: that of self-interest, nominally the standpoint of Mill and those in agreement with him; that of emphasis upon environment, the standpoint of Marshall and other leading writers on Political Economy of the present day; that of altruism, the standpoint of men of strong faith or remarkable insight into the possible adjustments in industrial relations.

The fundamental elements or principles of Political Economy are the same when considered from any or all of the three standpoints; that is, there is the space-element, the time-element, forces of the material universe or wealth, and man's energy both mental and physical. And the same problem presents itself, the best adap-

tation of wealth to the needs and wants of man. The "things" of the world are brought into just the same direct relation to his spontaneous and self-made wants, and man therefore measures the utility of the objects and gives them a value. Although the kinds of utilties vary in number from each of these different standpoints, yet as man's wants would remain there would still be demand. There would also be like attempts to adjust the supply to the demand.

While these "concepts" as fundamental principles remain the same from any one of the three standpoints, the practical application will vary; as, for instance, the "economic man" (calling, for convenience, the man who emphasizes self-interest the "economic man," and the man who emphasizes altruism the "ethical man," and the man who recognizes the influences of environment upon altruistic motives and acts accordingly, the "practical man")—the economic man, in considering the course of action when he has a desirable "corner lot" for sale, decides to keep the lot as long as its value increases and will sell for the highest possible price, irrespective of the purposes for which the lot may be used, or what public interests suffer by the retention of the lot in his private possession for so long a time.

The ethical man refuses to sell the lot if it

is to be used for purposes that will harm his neighbor, or for the sale of intoxicating liquors, gambling or any other form of vice, irrespective of the fact that a very high price is offered for it; but if the lot be needed by some one just starting a business which will furnish employment for those needing work, and for whose product there is a legitimate demand, the ethical man sells for such a price as would enable the less fortunate man to get a good start in business.

The practical man, before selling his lot, considers the history of business in the town, the probable demand for building lots during the next few years, the rate of increase of population, the needs of the would-be purchaser and his own resources, and with the aid of competent judges, he tries to strike a medium between his own interests and those of the purchaser, and sells at the time when the equilibrium of interests will be least disturbed.

The fundamental considerations of the "market" are the same from all the given standpoints; business transactions must be based upon a consideration of "time" and "place," "initial cost," "demand and supply," etc; but there are other elements in the customs of the market which can be varied, largely depending upon the individual standpoint.

The economic man, having ever in mind the desire of advancing his own interests, does not hesitate to put the best articles "on top," or to advertise "the best things in the world"; does not hesitate to keep "leaders," or to advertise to sell for a certain number of days "below cost," if thereby he may undersell a neighboring merchant, and bring more money to himself, irrespective of the effect upon the market as a whole; does not hesitate to monopolize a given line of business, whoever may be "driven to the wall" in consequence; does not hesitate to "make rates" or to take "rebates," or to evade the spirit of a law, if he can shield himself by a mere technicality.

The ethical man condemns all the above-mentioned practices of the economic man. A plain statement of goods and their prices is the kind of advertising done by the ethical man. And besides the evident dishonesty of not selling just the amount and kinds of goods advertized, the ethical man has a due regard for the public standard of ethics in business transactions, and he permits no desire of advancing his own interests to induce him to forget the interests of those associated with him in business as customers, fellow-workers or dependents. He is also willing that even a new-comer shall have an opportunity of starting in the same line of business

in which he himself is engaged, and if, on account of greater ability, by using current business methods, he can outdo him, the ethical man will yield the field to him and either become an employé or start business in a new line. The ethical man also assists in the enforcement of a law made in the interest of the public, even where his private pecuniary interests suffer.

"Honest goods and fair profits on all," is the motto of the practical man. He studies the market as a set of forces which must be kept in a stable condition, if his own interests, along with others, are not to suffer. This interest in the "market" is not thus strong, because the fluctuations may mean loss and suffering to many human beings, but because there is a great satisfaction in being able to interpret and perhaps control vast enterprises and to feel himself in touch in a business way with the remotest parts of the commercial world. The quality of his goods varies just enough from the trademark to escape detection, that he may preserve the confidence of his customers. He scorns all manner of dishonest dealing, yet he is on the lookout that no one gets the better of him. He will not violate a law of the land, neither will he take an aggressive position in introducing new measures, even for the public good; his business interests may suffer by such a

course of action, and while recognizing that someone ought to take the initiative, he is reluctant to take any steps that may affect his business prospects. To the practical man, the most economical adjustment of different forms of wealth to the needs and wants of man is the ultimate object or end of industrial effort.

The self-centeredness of the economic man often takes the form of lavish expenditure in consumer's wealth. This economic man persuades himself that, since he keeps a large number of servants to minister to his personal pleasure and since the destruction of utilities gives opportunity for new supplies, therefore, in furnishing or giving occasion for employment to a large number of poorer members of the community, he should be viewed in the light of a benefactor to society.

The ethical man considers that such a course of enlightened self-interest is really a form of selfishness. The ethical man consumes that he may live and work, the above-type of economic man lives that he may consume as much wealth as possible. The ethical man sees the fallacy of the reasoning of the economic man and puts his wealth, beyond what is needed for the healthful needs and elevating wants of his family, into different forms of productive enterprises. He also invests in public museums, art galleries, libraries, and different

forms of educational efforts, free to all members of the community; he realizes that such kinds of wealth by being shared are increased in value.

The practical man regards the relation of wealth to man's needs in much the same way as the ethical man; except, that the practical man sees in the consumption of so many pounds of bread, meat, etc., so many units of working force that can be utilized to farther increase the wealth of the world. The primary consideration for increasing the comfort of the worker is that his efficiency may be increased; though, through the improvement of his environment, it is granted that he will become a better individual and a more worthy member of society.

Production is the process of transforming primary utilities into those more directly suited to the wants of man. This process is a union of the forces, "gifts of nature," and the energy of man; but as the wants of man become complex, the production of utilities for his satisfaction becomes difficult and often requires much time. From whatever standpoint "production" is considered, there will be three general factors in the productive process: (1) The land, at a degree of fertility found naturally, together with wind, water, air, sunshine, etc.; (2) Capital, or that force whose initial energy is represented by the unconsumed food-supply, and

whose accumulation is due to the element of time and to the increasing wants of man, which, encroaching upon the existing "sustenance fund," indicate new and wider channels for the directive effort of man to produce new grades of utilities; (3) The expended energy of man, both mental and physical. There are thus for each, the economic man, the ethical man, and the practical man, these same fundamental conditions of activity.

As an agriculturist, there are also facts to be regarded by each, among which are the following: that land at the degree of fertility furnished by nature is limited in quantity; that, in general, land is subject to the "law of diminishing returns." But the significance of these facts varies from the different standpoints.

The "economic man" takes advantage of a "legal structure" that enables him to control immense estates, "bonanza farms," "ranches," "sections," etc., regardless of the fact that others want an opportunity to own a portion of the limited area of the earth's surface. The law permits him to do this, and since he can manage so many tenants, or workmen successfully, his interests will be best advanced by farming on the large scale, and as he furnishes employment and perhaps produces grain at less cost than could be done with "small farming," of course the interests of all will be best

advanced. The fact that a large working force is required in the summer for the sowing, planting and gathering of the crops, that in "large farming" there is nothing for employés to do in winter, and that they are therefore discharged to wander over the country, does not enter into the calculations of the economic man. The workmen agreed to work for a certain price and when that is paid, the responsibility of the employer ends.

The fact of the comparatively small amount of the earth's surface that each one can have for his own use, enters strongly into the thought of the ethical man. If he inherit a large estate, or come into possession of large tracts of land, he will not retain it that he may have the returns from it for his own exclusive use. Although he knows that he can manage it well and perhaps be able to cultivate it and obtain a larger product, and he may by reducing the cost of production or by increasing the supply be even able to make grain cheaper, yet he will not keep large estates under his control. He realizes that it is necessary, in order that individuality be developed, that an opportunity be given for each one to exercise his own energy upon his own material environment, and, as he himself wanted this opportunity, he knows that others desire equal opportunities to develop their potential energies. He also knows

that unless a person's energy can be turned into channels productive to society, it will destroy the results of good deeds of other members of society. Considering such facts, he offers to sell portions of his land at such price as he would himself be willing to pay; or he leases for a sufficiently long time so that the tenant may have a personal interest in the use and improvement of the land; or he tries some kind of association farming. In some way, he tries to give others the opportunity for exercising the control over external forces and for independence which he himself so much enjoys.

The practical man computes carefully the advantages of large farming to society as a whole; the possibility of using the best machinery, of saving much time by doing in a single process what might require much repetition with small farmers, of utilizing through overseers a much lower grade of labor than could otherwise be used; and by reducing the cost of production he can sell more cheaply, and as a result many people could have better food and homes than would be possible with other methods of agriculture. And since the practical man is not likely to emphasize the need of nurture and care of individual souls, there seems to him more symmetry and organization in the one-man management of a large estate than in the varied and sometimes

weak attempts of other farmers in management. Production to the practical man is a net-work of forces that must be skillfully manipulated; but he sometimes ignores the fact that the condition of dependence of the employees of the large system of agriculture prevents self-directed effort and therefore growth, and that this loss of individuality eventually weakens the productive forces of society.

For the manufacturer (understanding by manufacturers all who take the "raw materials" and shape them into goods of "second or higher orders") as a producer, the conditions must be other than they are for the agriculturist. From the nature of the industry, concentration of means is necessary. The processes are so interdependent and so much machinery is necessary that great waste of capital would follow a separation into small industries. The kind of industry influences the course of action of each, the economic, the practical, and the ethical man. The position of the economic man as a manufacturer is well illustrated by reference to the general attitude of the manufacturer previous to the passage of the Factory Acts already referred to (pp. 74-75) and his opposition to the same. The attitude of the practical man is suggested in the monograph of Prof. H. C. Adams, "The State in Relation to Industries," especially the portions treating of industries of "constant returns." The

position of the ethical man in industries of this class has already been indicated (p. 86).

But the ethical man, besides advocating the regulation by law of conditions of labor, is impressed with the evils that are necessary to the "factory system," — evils that uniform action of the kind enforced by law cannot reach, but evils that must be in a large degree remedied by voluntary effort. He gives careful attention, beyond the enforced sanitary regulations, to the evils attending the grouping of large numbers of families in tenement houses for the sake of carrying on production on a large scale. He even considers that in some respects the man who works for wages only, was better off under the old system of manufacture, that is, he considers that the gain to the wage earner in personal freedom is not sufficient to balance the disadvantages that have come with the loss of the fixed industrial position of medieval times; but the ethical manufacturer also recognizes that the wheels of progress do not turn backward, and that industrial freedom must be achieved through the same general process that has secured personal independence, that is, there must be a more thorough adoption of the democratic principle, and to that end, he advocates productive co-operation whenever feasible.

But there would still remain the evils attendant upon the great division of labor necessitated by the use of machinery. The monotony of doing the same small, seemingly insignificant portion of work, day after day, week after week, and year after year, dulls even the original activity of mind, and makes the worker almost as much of an automaton as the machine which he tends. But such work must be done, and the only thing left for the ethical manufacturer is to assist in making possible opportunities for the incitement in other needed lines of activity. Such monotonous work demands fewer hours than interesting, pleasing work, and with the shorter working day, there would be time for recreation and restful kinds of activity. All the available means in the way of clubs and reading circles, Chautauquas and university extension and evening schools, concerts and social gatherings to which should be invited others that did not belong to "our set," sewing classes, cooking classes, and opportunities for learning simple uses of tools would be utilized as far as possible.

The practical man might advocate the same above-mentioned measures, but he would first find out whether a working-day of eight hours in all kinds of industry could produce sufficient to feed and clothe the people of the country, and whether the democratic control in business brings sufficient

amount of good to balance the loss that comes from a lack of individual control, and whether all the means for education and recreation educated the workers out of their station, that is, whether the good obtained was more than offset by the discontent engendered.

In industries that are monopolies by nature, or semi-public in character, the position of the practical man and of the ethical man has already been indicated (p. 85). The economic man insists that this kind of industries is also subject to the laws of competition and that the state has nothing to do with the regulation of industries, and therefore his position is essentially the same as that of the economic manufacturer.

One more illustration:

While the producer and consumer are both concerned with the articles, their utilities and the mechanism of exchange, the distributor and the recipient of economic wealth are each interested in the comparative values represented by the different articles of production; and the problem is to find an equitable basis for a division of the value of the results of the productive process.

Entering into every productive process with greater or less prominence are the four classes: (1) The owners of natural resources—landlords; owners of an applied portion of the sustenance

fund—capitalists; owners of a comparatively large degree of mental energy—undertakers; owners of physical energy—wage earners. There is a characteristic about each of these factors that must not be overlooked—the nature of the limitation of the kind of ownership of each. The landlord owns land; land is limited in quantity, its space relations is the prominent element for consideration. The capitalist owns capital, whose quantity may theoretically become unlimited, its rate of accumulation, its time relations are the most prominent. The business-managers own skill, insight and ability, the use of this intellectual energy, the direction in which it is employed is the chief element for consideration. The wage-earner owns physical energy in a larger degree than mental power, the amount of energy is the emphatic element. As all of these elements enter a productive process, so in every process of distribution each one comes in for a share of the value, and it is only when one element is more efficiently an agent in the creation of value than the others, that that one should have more of the value than the others.

Also it should be noticed that all these factors are, in a sense, not co ordinate; that is, the two former have similar characteristics that co-ordinate them and the two latter. The value of the product is dependent upon and therefore belongs in a more

direct way to human energy, mental and physical, than to the inanimate forces. The value of the product is logically first distributed to the workers, business managers and wage-earners, and they in turn distribute to the landlords and capitalists.

The nature and functions of capital and the relation of the capitalist to the wage-earner appear different from the different standpoints we have been considering.

The general position of the economic man on these points is well known. It is only necessary to mention certain familiar and much-quoted phrases to define his extreme position: by "abstinence" the capitalist amasses a sum of money which he may determine to put into a productive enterprise and this sum becomes his capital; and as a portion of this sum must be set apart for the support of labor, this portion becomes a "wage-fund" which divided among a larger number, gives a less portion to each wage-earner. The most efficient remedy for low wages is therefore to decrease the divisor. The perfect competition supposed gives each man an equal opportunity with every other man to become of more importance and to get higher wages. As the wages and profits must both come out of the same fixed sum, as wages increase profits must decrease; and consequently there can be no real spirit of co-operation between

capitalist and laborer, but only one of antagonism occasioned by the effort to each get the larger share of a certain sum.

To the economic man, the capitalist is the one who puts things in motion and upon whom the laborer is wholly dependent, and the laborer seemingly has a fixed industrial position which can only vary between the points of "starvation wages" and the greatest amount that can be obtained from the wage-fund by decreasing the number of workers. And any amount of combination among wage earners by the way of organizations like trade-unions, cannot possibly increase the amount of the wage fund and consequently cannot raise wages.

The practical man and the ethical man need not necessarily differ from each other in their fundamental conception of the nature and functions of capital. They may take any one of the various views held at the present day. The following example, which attempts a partial interpretation of the ideas of Böhm-Bawerk, Jevons, and H. C. Adams, may serve the purpose of this illustration:

While the landlord gets his amount of the results of the productive process as pay for the quantity of space which he controls, the interest which the capitalist receives comes to him because of the importance of the time-element in production and the demands of society. Suppose the value

of all the agricultural products in a given country at the end of a year is $100x$. By a restriction of the amount that might have been consumed, this country has $10x$ that is not consumed; but as no one knew that that amount would be left over, the value of each unit of that amount is the same as each unit of the $100x$; then some enterprising people, seeing the increase of population and the consequent demand for utilities, put this $10x$ into tools, machines, etc., the labor and land forces remaining the same during the year, by the means of which the increased amount of surplus at the end of the next year becomes $12x$ in value. Now the additional $2x$ came from the putting of the $10x$ sustenance fund into forms of "capital;" the $2x$ was really gained upon $10x$, or the rate of gain upon this form of applied force is $\frac{2x}{10x}$, and this gain has come because at the end of the year the wants of society are such that the amount of force represented by the $2x$ will be needed to supply the demands of the country. Therefore, in very much the same way that the rental value of land depends upon society as a whole, the accumulation of this amount of value comes because the various changes in the demands of society have given this time-element a value that is called interest. Several other elements are of importance and capable of analysis, but the thought is, that the

emphatic steadfast element in interest is the time-element which renders the social and productive changes possible.

As Professor Böhm-Bawerk says (*Capital and Interest*, Vol. I, p. 259): "The loan is a real exchange of present goods against future goods. * * * Present goods possess an agio in future goods. This agio is interest."

The language of the quotation appears to be from the standpoint of "individual capital" rather than from that of "social capital." But the thought can be applied to the above example. The different articles, or their utilities, which represent the 10x value at the beginning of the year, though they may have changed form and number many times during the year, at the end of the year have a value of 12x, because the number and range of wants of the people have changed. It does not follow that changes always mean an increase of social capital; as, in a time of famine, one individual capitalist may obtain a large rate of interest, which really comes from another capitalist or from wealth that should have been converted into forms for immediate consumption by starving people, and not from a real increase of social capital. Thus, in our example, at the end of the year, while society as a whole would have 2x value, if there were no hope of increase of wants or no ability with each one-

to satisfy them, the marginal utility of the capital of the individual capitalist would have decreased approximately one-fifth.

Although, according to the above example, the normal rate of interest is .20, some business manager with strong insight into the probable demands of the next year, will be willing, in starting a new business, to pay more than the normal rate, and yet, owing to his getting ahead by the way of an invention, or by "taking up" very fertile soil, he will have a large surplus from his business venture. On the other hand, the business man may not estimate correctly the direction in which this force should be employed, or some sudden change in the fashion may reduce the special form of his capital to uselessness; but as its value may have passed into other forms, this deterioration of value may be a loss to the individual capitalist, but not to society as a whole. That is, an individual may estimate his capital and express it in terms of money at any time, but the social capital is a force whose intensity can be estimated with surety only when in a certain form.

It may be suggested that there is a possibility of estimating the value of capital from the social standpoint just as well after it has assumed the form of machines, tools, etc., as when in the form of a sustenance fund. That would be true, if it

were not for the element of "thought" that enters all estimates of value. For instance, suppose the value of all the capital of a country or of the commercial world were estimated at the beginning of the year; a machine is directly afterward given a place-value by being transported from the east to California, and that machine makes a kind of cloth which immediately "sets a fashion," and there is an immense demand. How much of the value of the cloth should be attributed to the engine that gave the machine a place-value? Or should none of this value be considered as entering the value of the engine? Should an arbitrary dividing line be made and the value of the engine be estimated from the "cost of production," and should this cost of production be reduced to terms of labor, or to the "supply-prices" of the materials composing the engine? Or shall the value of the engine depend upon the "reciprocal demand" for engines when compared with other articles; and if so, what elements enter that demand? May there not be a complete readjustment of values all over the commercial world, by the simple change of the wants of consumers? If true, is there any certain way of estimating social capital after it leaves the form of "sustenance fund?" For since the thought-element of a want will always enter for consideration, can the variations of thought, which enter as an ele-

ment to cause the fluctuations in values which in turn cause some capital to assume new forms and other forms to become useless, be ever estimated?

Both the practical man and the ethical man acknowledge, that, while the existence of capital is due to individual foresight and prudence and self-restraint in refusing to consume all the utilities represented by the sustenance fund, yet the rate of its accumulation and the variations depend closely upon the needs and wants and resources of society; and they consider that the individual control over capital that society has logically and rightfully granted to them, places upon them certain obligations which in other capacities they might not have.

Both the practical man and the ethical man, taking the above view of "natural interest," grant that by foresight in anticipating elevating wants of society, and by skill in investing, the individual capitalist may justly get more than natural interest. Also both grant, that wages as well as "profit" come from the product and that there is no fixed ratio in which the distribution must be made. Both also agree that the "standard of comfort" and not the amount of money measures the wages received. And both see that the kind of industry and the consequent constructive legal measures are elements that assist indirectly to de-

termine the relations of capitalist and laborer even in the competitive phases of industries.

But there are other points upon which there would be different conclusions, depending upon the standpoint.

Some practical men say that the whole problem of distribution may be solved by an application of the "law of rent" to determine the "profit" of the business manager, and when one portion is fixed as a starting point, the problem becomes easy; other practical men, as well as the ethical man, say that the law of rent can be applied in a similar manner to determine the portion of any one of the four classes of claimants, and that such a theory of distribution is simply a conception of a series of forces in equilibrium without any really self-consistent, self-determining element, and that with such a conception, the starting point in the distributive process can be none other than an arbitrary one.

The practical man says that wages depend upon the "efficiency of labor and upon the amount of land," or expressed differently upon the "law of substitution," or that "the wages of every class of labor tend to be equal to the produce due to the additional labor of the marginal laborer of that class."

The ethical man says that the conditions are so

various that different trades and branches of industry must be considered by themselves in order to find the "marginal worker," and that it is not much more difficult to discover the "normal man," than it is to discover this point of equilibrium at which a worker would as soon do one kind of work as another; that the practical man's competition, or "economic freedom and enterprise" seems to be largely confined to freedom in a particular kind of business and that the employer really estimates how much the man is worth to him and pays for his ability and skill accordingly with not much reference to other kinds of industries; and that in such a process of estimating the worth of a man to the particular industry, competition takes the desired vertical direction or that which depends upon the skill and ability of the worker rather than the horizontal competition or that where "numbers" is the chief factor.

Marshall says: * "The corrected law then stands that the tendency of economic freedom and enterprise is generally to equalize efficiency-earnings in the same district; but where much expensive capital is used, it would be to the advantage of the employer to raise the time-earnings of the more efficient workers more than in proportion to their efficiency." The ethical man would see that the "corrected

* Principles of Economics, p. 581.

law" might have applications for other reasons than the "advantage of the employer."

The practical man also says that wages depend upon the amount of capital, not that the capital forms a wage-fund, but that the product is increased by an increase of capital and therefore wages indirectly depend upon the capital invested; the ethical man grants that such a position is a true one but that it does not necessarily follow that the laborers will get their share of the product because of any inherent "natural law": that "natural law" in the distributive process is largely the will of the business manager.

The practical man sees that the present state of antagonism between capital and labor is in a measure due to either the tacit or open combination of capitalists in accordance with the ideas of the economic man in the decades that have passed, and that trade-unions, etc., among wage earners are for the most part counter-combinations to obtain rights that in justice are theirs, and to secure a more correct proportional share of the "producer's surplus" than they seem to be able to get in any other way: the ethical man sees that the same result can be accomplished in a better way; that the wage earner's position is not fixed in that stratum and that anyone may develop the ability which fits him for a business if given the opportunity. And to that

end he will try to increase the sense of personal responsibility of the wage-earner in all practical forms of co-operation,—productive, and association-farming, distributive—and in different forms of profit-sharing; for the ethical man sees that such measures are not revolutionary but are only making more explicit what already exists to some degree in industries where no one of the above-mentioned forms is avowedly used: as Professor Marshall states, “Even where the same price is paid all over the market for the same work with the same machinery, the prosperity of a firm increases, for almost every one of its employés, the chance of advancement, and also of continuous employment when trade is slack, and much-coveted overtime when trade is good. There is *de facto* some sort of profit and loss sharing between almost every business and its employés.”

The practical man grants that through combination of wage-earners, wages may even encroach upon loan-interest and that in the course of time interest may become zero; both the practical man and the ethical man grant that that such a condition may be reached is in accordance with the above ideas of natural interest, that is, when the capital of a country has a tendency to increase more rapidly than the possibilities of industry to satisfy the wants of the people or their ability to satisfy them,

natural interest may become zero; if such is the possibility, the ethical man has a double assurance that it is not sentiment to remit, when the circumstances and character of the borrower justify it, the interest upon a loan or mortgage, or to allow the payment to be deferred until a year of better crops or of more successful business; if his principal remains intact the ethical man considers that he has still the reward of his own individual industry.

Some practical men say that "Protection" raises wages in the kinds of business protected to the rate paid in unprotected industries, and that protection is only necessary in a new country and then for the sake of the industrial education thereby attained through diversified industries; the ethical man joins in the conclusion, that to continue "protection" after the industrial education is well advanced is a method of self-exclusion from the reciprocal business and trade interests of other countries.

The practical man as a laborer considers that, as the employer has the advantage of opportunity and perhaps of superior mental power, he is justified in getting all of the product that he can; the ethical wage-earner looks very carefully after his own faithfulness, and considers that there may be an identity of interests between his employer and himself, and if he sees that his efficiency is not

equal to that of others of the same grade of workmen he offers to work for smaller wages.

The practical man sees that many of the evils of the "sweating system" can be done away with by the means of "consumers' leagues," by which only those firms which pay respectable wages shall be patronized, also that the influence of public opinion is a powerful agent in assisting business managers to a method of distribution more nearly just to all claimants for shares of the product; the ethical man considers that his responsibility for the work from his establishment ends only when the articles are ready for consumption, and in limiting his energies to a business of the size that he can manage personally he is able to see that the workers receive what in justice is theirs. His interest in wage-earners extends beyond their efficiency as workers; for he looks upon them as human beings with like wants, desires and aspirations as himself. And the ethical man has learned well one of the seeming contradictions of the human mind: whenever a person seeks his own good first regardless of the good of others, that which he seeks eludes his grasp; but as soon as he consciously and determinedly prefers another's good to his own, or seeks his own good through another's, at that moment the person enters into a larger and more complete life.

The inadequacy of illustrations to convey completely the thought contained in a principle is readily granted. It is doubtless to a large degree true that the "economic man" of Mill's conception has become the "practical man" of present writers through the recognition of the fact, that men in business relations are moved by motives other than that of self-interest; and, if all the possible grades of business motives may be resolved into some form either of self-interest or of altruism (laying aside the perfectly valid thought of the reason, that the universe is created in accordance with altruistic principles, and that man can only truly develop as he adopts and exemplifies these altruistic principles in all his relations with his fellow-men), is there not reason to think that progress in the future will be by a more extended adoption and exemplification of altruistic principles, and that the "practical man" of future generations will in many more points resemble the ethical man of the present?

